

PREVENTING AND MITIGATING ELECTORAL CONFLICT AND VIOLENCE

Fabio Bargiacchi, Victoria Florinder
Editors

Kondwani Chirambo, Thibaud Kurtz
Co-editors



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FOREWORD

Monica Frassoni, President of the Board, European Centre for Electoral Support

Foreword

This handbook “**Preventing and Mitigating Electoral Conflict and Violence: lessons from the Southern Africa**” has evolved over four years of ECES work in the SADC region. That said, lessons from other parts of the world where ECES is active has surely contributed to a more holistic understanding of the complex matter of electoral conflict prevention.

The handbook was debated and validated during a seminar organised by ECES in collaboration with the Directorate for Democracy Support of the European Parliament and the Election Support Network of Southern Africa. The seminar, entitled “**Preventing election related violence: what role for political mediation and dialogue and Launch of ECES’ Election Conflict Prevention Handbook on Southern Africa**”, was held on the 12th and 13th of July 2017 at the Hotel Renaissance, Brussels, whereas the last day was held in the European Parliament. It was a follow-up to previous seminars held in the Parliament over the last two years on election conflict prevention. It builds on two key publications of the European Parliament namely “**How can the EU support Peaceful Post-Election Transitions of Power: Lessons from Africa**”¹ and “Developing Operational Tools within the EU for a comprehensive approach to **prevent electoral violence**”².

The recommendations that the handbook has produced has therefore benefitted from discussions at the seminar so that broader conclusions could be drawn, relating also to the work of the European Institutions that historically, and currently, continues to be the largest donor of democracy and electoral support worldwide. As such, this handbook builds on the efforts of the European Union in election conflict prevention coupled with recent lessons from the field, in near all SADC countries.

This combination represents unprecedented content gathered in one handbook. The handbook collects case studies from all 14 SADC countries, proposes key recommendations for development partners and offers analyses of the potential and pitfalls of existing conflict prevention mechanisms at both regional and national levels.

The seminar was actively chaired by two Members of the European Parliament (MEP) Ms. **Judith Sargentini** and Mr. **Alojz Peterle**. Having both played the role of Chief Observers in EU election observation missions, respectively in Mozambique, Tanzania and Kenya, that perspective gave a much valued contribution to the panel, which was composed as well by:

- **Fabio Bargiacchi**, Executive Director, European Centre for Electoral Support (ECES) ;
- **Riccardo Chelleri**, Policy officer for Democracy and Election Observation, European External Action Service;
- **Canan Gunduz**, Mediation Advisor, Conflict Prevention, Peacebuilding and Mediation Division, European External Action Service;
- **Granville Abrahams**, Senior Manager for Electoral Matters Independent Electoral Commission of South Africa (IEC);
- **Victor Shale**, Independent Consultant Shalestone Consultants;
- **Gérard Stoudmann**, Senior Diplomatic Advisor and Coordinator Preventive Diplomacy Group, European Institute of Peace;
- **Sonya Reines-Djivanides**, Executive Director, European Peacebuilding Liaison Office (EPLO).

The debate was very well attended by a vast audience of important electoral stakeholders from Europe and Africa, including electoral management bodies from South Africa, Lesotho, Mozambique, Burkina Faso, and researchers and electoral experts who took part to ECES activities under PEV-SADC projects framework and beyond. For the

¹ [http://www.europarl.europa.eu/RegData/etudes/note/join/2012/457110/EXPO-AFET_NT\(2012\)457110_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/note/join/2012/457110/EXPO-AFET_NT(2012)457110_EN.pdf) (2012)

² [http://www.europarl.europa.eu/RegData/etudes/STUD/2015/534986/EXPO_STU\(2015\)534986_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2015/534986/EXPO_STU(2015)534986_EN.pdf) (2015).

sake of opening up a wider debate and allow cross-regional comparisons, representatives from the ECOWAS/ECONEC network and CAPEL, headquartered in Costa Rica. Embassies from SADC member states were also present.

Turning back to the contents of the handbook, the empirical material presented in this handbook is the result of an extensive research exercise carried out by ECES in partnership with the Election Support Network of Southern Africa (ESN-SA). The research took place in the framework of the regional EU-funded project for the prevention of election related violence in the Southern African Development Community (SADC) with a corresponding 25% funding contribution from ECES.

Researchers, as well as key electoral stakeholders such as the civil society, electoral management bodies, political parties, media and the judiciary, took part in this unique exercise to delve deeper into the social fabrics of the SADC countries.

The research gathered in this handbook is not only useful as a more complex contextual analysis but it also draws attention to the fact that although root causes of electoral conflict may have a similar origin, the various mechanisms built to curb election related violence are numerous and innovative and vary greatly across the SADC.

ECES' mission has been, both within and beyond the context of the regional conflict prevention project (abbreviated PEV-SADC), to revive and empower already existing conflict prevention structures. There are a number of noteworthy peace-infrastructures in the Southern part of Africa, stemming from the liberation struggle all through the end of the apartheid era that, naturally, laid a new socio-political foundation not only for South Africa but also for the entire SADC region. In light of the consolidation of multi-party politics in this vibrant part of the African continent, there are still firmly anchored patronage systems, unequal distribution of wealth and inequalities across near-all SADC countries in one way or the other.

The political economy of the SADC - by which we refer to the way politics and access to resources are inextricably linked can, therefore, be used as a predictor for the motives behind trying to manipulate election results, voting behavior and political attitudes, performance of local governments and more - is perhaps the most visible around election time.

Many people still do not find the incentive to vote. The reason behind voter apathy in the SADC, as suggested by the research stems from the notion that little is likely to change: either that the incumbent government will find a way to remain in power or that a new government would fail to correct the shortcomings of its predecessors. Many political parties in the SADC started out as part of the liberation army, that once victorious turned into a fully-fledged political party dropping arms. Hence, the people and the political parties that brought political and social freedom are linked in some sort of a reciprocal contract. The so-called "born free" generation that emerged in South Africa to define the youth born after the fall of the apartheid regime is growing to become the majority group not only in South Africa but also elsewhere in the region. This may change the traditional majority support for freedom-fighter parties.

Several countries have during recent elections shown that the electorate, civil societies, media and other electoral stakeholders place higher demands on the leading elite, challenging their motives to serve the best interest of all its people. Governments are not able to co-opt political processes in vast parts of the SADC, without outspoken protests from the grassroots. The roles of independent electoral commissions are key and even though election results may not correspond to all stakeholders' expectations, the public perception of the professional management of elections is probably the most important aspect of election conflict prevention.

The over 260 registered political parties in both South Africa and Lesotho in the SADC are perhaps an indication of a divided society rather than a healthy multi-party political landscape. Attempts to serve a larger portion of the electorate, both ruling and opposition supporters, through power-sharing agreements as seen in Zimbabwe, Tanzania Zanzibar and elsewhere have proven to be short-lived.

There are two distinct on-going parallel processes in many SADC countries that in academic literature are seen

as almost dichotomous, namely social progress, prosperity and growth on one end and a revival of political intolerance, politically motivated killings and impunity on the other.

Interestingly, and also paradoxically, conflict and violence tend to scare people away from taking part in political processes but in some cases, they have shown to be instrumental in shedding light on the stakes involved in politics and election. Through conflict and violence, people become more aware of how their lives are shaped by policies and politics, which in turn motivates activism in some.

In order to ensure that the findings of this handbook are disseminated and can continue to be a source of discussion, the case studies have been fed into ECES' innovative training curriculum entitled Leadership and Conflict Management for Electoral Stakeholders (LEAD). As such, the research forms part of the capacity enhancing programmes delivered all over the SADC region in order to stimulate debates amongst those who hold the potential to change the rules of the game both at national and regional levels.

Another important aspect of our work is to synergise with academic research around democracy and electoral support. Election conflict and violence prevention is an emerging field in academia with many excellent contributions that, using evidence-based research, could point us in the direction developing a more categorical understanding of how and under which conditions election conflict prevention works. ECES is also committed to building bridges with academic and research institutes by taking part in various academic and research-oriented fora that tackle the issues of election related conflicts. There is great value in comparing notes and exchange with peers, as we did when finalising this handbook following the seminar held at the European Parliament in July 2017.

In this context this handbook will be officially released in one of the most important forum on this subject, namely the prestigious **Pre-APSA (American Political Science Association) workshop, entitled "Building Better Elections: New Challenges in Electoral Management"**³. The workshop, that takes place August 29, 2018 at the Massachusetts Institute of Technology (MIT) in Boston will see the participation of ECES that will be presenting a paper derivating from this handbook and sheds light on some of the current trends within election conflict prevention and management using the case studies featured in the handbook. As such, we consider the pre-APSA workshop as the official public launch of the handbook that will be later be distributed to electoral stakeholders globally and available online on ECES web site and social media platforms.

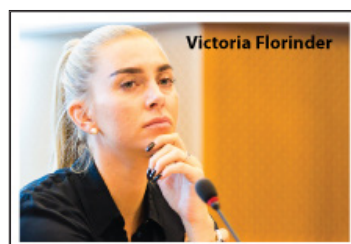
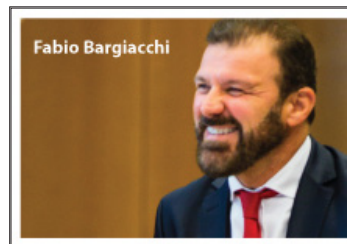
Lastly, it has been a privilege to have followed not only the research process but also the entire PEV-SADC project for nearly four years. A second phase is currently being developed in order to consolidate the work done and the vast networks across the entire region that ECES and ESN-SA have cultivated. This phase will focus on the management aspect of election conflict prevention to consolidate the work done in prevention and mitigation of electoral violence. This important work will again be coordinated by our Executive Director, Fabio Bargiacchi, and Senior Electoral Conflict Management Advisor, Victoria Florinder, who I would like to commend for the work done so far and that to be done in the future in this important aspect of the electoral support field.



Monica Frassoni
ECES President

3 This annual event is co-hosted by the Electoral Management Network (www.electoralmanagement.com), the Electoral Integrity Project (www.electoralintegrityproject.com) and the MIT Election Data and Science Lab (MEDSL, www.electionlab.mit.edu).

Key Contributors to the panel discussion



PREFACE

Rindai Chipfunde Vava, Director of Zimbabwe Election Support Network (ZESN) and Host Director of the Election Support Network of Southern Africa (ESN-SA)

Preface

SADC is currently considered as a relatively stable region in terms of election related violence. Indeed, emerging from a background of oppression, racism and conflict, and faced with the challenges of globalisation, the region's leaders envisioned a shared future driven by the political, economic and developmental integration of their economies founded upon common democratic values and institutions. In this perspective, multiple efforts have been undertaken by its member countries to foster an environment of peace, security and stability over the last decades. Different institutions and protocols have been created to reinforce regional cooperation and sharing of experiences. Although these institutional arrangements broadly deal with social conflict, the notion that electoral-related violence specifically threatens regional peace and stability was placed in sharper focus in 2004 with the endorsement by the SADC Heads of State Summit of the first set of SADC Principles and Guidelines Governing Democratic Elections.

The instrument formally allowed the observation of all electoral processes in the region as a means of sharing best practices and forestalling undemocratic outcomes which tend toward political violence and instability. In 2015, after 10 years of varied experiences with successful and, sometimes, disputed electoral processes in the region, the SADC reviewed and developed a more comprehensive set of Principles and Guidelines Governing Democratic Elections, which encapsulated civil society inputs for the first time, and was informed by the changing technological, security and legal environment surrounding democratic elections on the continent and globally.

It is in this general environment that the SADC-Electoral Support Network was established in January 1998 with the main task of observing the elections in SADC member states through enhanced collaboration among the existing national observation networks. In order to distinguish the network from intergovernmental bodies and to confirm its identity as the only non-partisan, non-governmental network of national observer groups, the network changed its name in January 2015 and became the Electoral Support Network of Southern Africa. In the quest to reinforce capacities of its members to be more closely involved in all phases of the electoral cycle and to be active players in the peaceful conduct of electoral and democratic processes, the network welcomed the high potential in terms of capacity-building, peer exchange, research and concrete action that was offered through its partnership with mainly the European Centre for Electoral Support (ECES) in the Preventing Electoral Conflict in the SADC region.

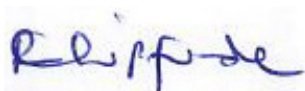
During the duration of this project, together with our partner, we observed rising concerns about the escalation of electoral related violence in periods before, during and after elections, which has led to instability in countries such as Lesotho, Madagascar and Zimbabwe in the recent past, uprooting fragile coalitions, generating low level conflict, triggering forced migration and displacement of peoples and generally posing a threat to a sustainable peace and stability in the region as a whole. As such electoral events in the SADC region show that there is a need for continued vigilance and deeper understanding of all dimensions and actors that could potentially generate conflict and/or violence related to electoral processes.

To respond to this need, the PEV-SADC project offered the possibility to set up a regional Observatory of very articulate researchers and analysts, closely linked to the ESN-SA to not only look at the root causes of past and more recent election-related conflicts but more importantly to give insights and recommendations on how to prevent them and detect them at an early stage as a way of preventing escalation.

As host director of the ESN SA and Executive Director of the Zimbabwe Election Support Network (ZESN) I believe in the potential of the Observatory as a way to sensitize the key-players in our electoral processes on how to consolidate our democratic processes and one way to do this is to communicate and share the results of the research and analysis carried out over the last years. This publication is an important step in making sure that more actors are informed about the initiative and its results in terms of lessons learnt, in-depth insights and well-

founded recommendations.

However, it is a first step that should be followed by others that go in the direction of promoting peaceful electoral processes as a necessary condition to consolidate democracy in our region. As a privileged partner of ECES, ESN SA believes that our joint efforts will further enhance positive dynamics in that direction and will attract other key-stakeholders such as electoral commissions, political actors, media, security forces, traditional and religious leaders to go in the same direction.



Rindai Chipfunde Vava

Director of Zimbabwe Election Support Network (ZESN)

Host Director of the Election Support Network of Southern Africa (ESN-SA)

INTRODUCTION

Fabio Bargiacchi, Executive Director, European Centre for Electoral Support

Introduction and Executive Summary

This handbook is an important contribution by ECES to deepen understanding of electoral conflicts. Surely, many of our activities are directly or indirectly contributing to the prevention of conflict and violence by enhancing the capacity of electoral stakeholders, or by providing concrete advice on how an electoral process can be improved both technically and operationally, and subsequently, supporting the implementation of such reforms.

This publication is, therefore, a milestone in our journey that began eight years ago, as it reflects the type of institution we have built since, namely a truly operational organisation that capitalises on its experiences and produces policy papers and case studies that allow us to disseminate important lessons learned.

At the time when ECES was still a nascent organisation, little more than an idea shared between seasoned electoral practitioners, we were always guided by ECES' ties to the SADC region considering the personal and professional experience of ECES Management Board members in this region built over 20 years.

Much of our work in the last 8 years, most notably in Africa, can be attributed to these specific professional experience that have earned ECES its dual profile: a European Brussels-based organisation built on one hand to safeguard European values and advocate for a strong cooperation on electoral matters between the European Union and its Member States with the partners and beneficiary countries of electoral support funded by the EU, and on the other, provide sound knowledge and deep experience of electoral democracies in Africa while retaining familiarity with the pitfalls and potential of electoral support in this emerging part of the world.

On a personal note, having worked in various parts of the world prior to embarking on the adventure of establishing ECES from scratch (including heavily contributing to the setting up and direction of the Joint Task Force of the European Commission and UNDP between 2004 and 2010) I have come to understand that Africa as a continent is so diverse and dynamic that it can sometimes be challenging to strategize in the midst of ever-changing political landscapes.

However, electoral processes do come with their own set of rules while the electoral cycle is a visual tool (which I had the honor to contribute to and develop back in 2006 together with colleagues of International IDEA and UNDP)⁴ that packages each phase into comprehensible components. Each component needs to function smoothly, otherwise, issues that may arise in one phase, are easily perpetuated into insurmountable problems come election day. With this, I would like to point out that as an electoral assistance provider, our analytical base is the functioning, rules, practices and laws that regulate the electoral process⁵.

Political analysis is nevertheless an important tool and may provide a certain formula that can sometimes predict how the electoral process will be implemented in a given country. It is, however, too fluctuating to base our entire work on it.

This handbook undertakes political analysis but in the sense that it is meant to help us understand the electoral system and process in the SADC country better and in particular, predict where in the process conflict or violence is likely to erupt. The handbook also makes recommendations on how to improve the system and process and what role development partners should play, in particular, the European Union and European electoral assistance service providers. Though differences do occur, nearly all electoral democracies have systems and processes in

4 EC Methodological Guide on Electoral Assistance - https://eeas.europa.eu/headquarters/headquarters-homepage/313/ec-methodological-guide-electoral-assistance_en

5 ISPI Working Paper – The Electoral Cycle Approach: Effectiveness and Sustainability of Electoral Assistance. <http://epd.eu/2011/07/01/ispi-the-electoral-cycle-approach/ispi-electoral-cycle-approach/>

place that are also used elsewhere. This means that the scope for regional and international exchange on best practices and lessons learned are important, but it is to date under-utilised. It is our hope that this handbook can be used to understand similarities and differences and improve exchange within the region.

A few more words are warranted about how the handbook evolved over the years. ECES has been implementing the multi-country project entitled "Preventing Election Related Conflict and Violence in the SADC region" (PEV SADC). The PEV SADC project is funded 75 percent by the European Union (EU) and 25 percent by ECES. The implementing partners, ECES and the Electoral Support Network of Southern Africa (ESN SA), implemented the project from March 2013 through August 2017 and collaborated with 16 member organisations at the national level representing 14 SADC countries.

This regional project, comprised a capacity enhancing scheme and a research component that launched an Observatory of electoral related conflict and potential violence (ERV) at the regional level. The Observatory, in turn coordinated by ECES and ESN-SA, produced fourteen⁶ case studies and regional analyses to explore conflict drivers and coping mechanisms. This handbook encapsulates this work. It offers national mappings of ERV and assesses methods of preventing, mitigating and managing election-related conflict and potential violence, while offering recommendations.

The handbook explores various forms of conflict and violence - ranging from physical, social to psychological to the notion of slow violence - in an electoral context to cover the most ground possible at macro and micro levels.

Election related conflict and potential violence takes place throughout the electoral process. Increased political and electoral instability have proven to be fertile grounds for radicalising trends of various sorts, in addition to being a consequence of societal and demographic changes. In turn, instability leads to decreased income generating opportunities and can eventually cause irregular migration. These correlations are largely still unexplored.

There are strong indications that the SADC region is going through multiple challenges that stem from a political economy that for long protected clientelism and patronage systems. This has held back peaceful transitions of power. Regional observers have questioned whether elections are part of the problem or part of the solution. However, when conflict or violence occurs, it is the result of a temporary, or permanent, breakdown of the entire process and not of a single element isolated from the process itself. There is also a role to play for development partners, and the handbook will eventually be useful in defining the entry points for international contributions.

Election related conflict and violence is multi-faceted. It is used within SADC, among other regions, as a means to express legitimate or illegitimate disagreements with official results, to influence voters to vote for or abstain from voting for a particular candidate/party and to marginalise certain groups.

Despite some democratic setbacks in key SADC countries during the last electoral cycle, there are numerous documented cases of effective individual and collective actions in the SADC region in favour of peaceful democratic systems by SADC and national official institutions, civil society organisations and electoral management bodies as well as an increase in electoral competition across the region. A comprehensive approach and early warning mechanisms are effective at preventing and coping with ERV. There is a strong expertise on ERV and efficient mitigating tools within the region that can be strengthened with regional and international cooperation.

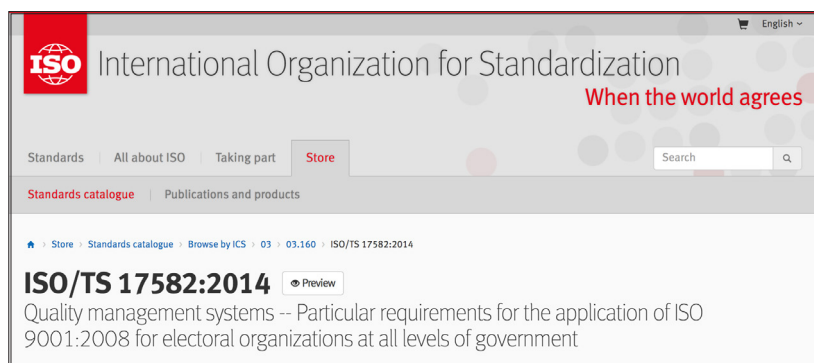
The lessons learned from the PEV SADC project about election related conflict and potential violence in the SADC are in line with the EU approach⁷ of "*coordinated and shared analysis of each country and/or regional specific context, the conflict dynamics and the root causes of a crisis situation*".

6 Angola, Botswana, DR Congo, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, South Africa, Swaziland, United Republic of Tanzania, Zambia and Zimbabwe

7 EU Council, Foreign Affairs. Brussels, 12 May 2014, [Council conclusions on the EU's comprehensive approach](#)

It also reiterates the statements of the European External Action Service (EEAS) about mediation and ERV, supporting the idea that the EU can assist in the setting-up “of local electoral mediation panels as part of local infrastructures for peace, consisting of trained individuals that reach out through dialogue, work towards a friendly electoral atmosphere, resolve conflicts through mediation and can act as providers of early warning signs⁸”. This is much in line with the South African model, which is explored further in this handbook.

When it comes to ECES’ contribution to these processes, we have developed our own strategy called “A European Response to Electoral Cycle Support - EURECS⁹”. This is an innovative delivery mechanism to implement electoral and democracy assistance activities that are consistent with European values and EU policies and targets the implementations of the recommendations of EU election observation missions. EURECS adopts an inclusive approach towards a wide range of electoral stakeholders in order to ensure comprehensive and sustainable actions. It is built to help prevent, mitigate and manage electoral related conflicts. This strategy will be key in the implementation of our future projects.

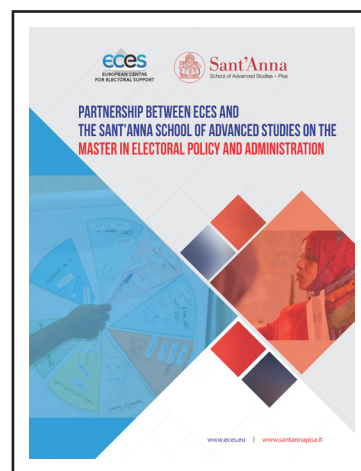


ECES collaborates as well with the International Electoral Accreditation Body (IEAB) and Organisation of American States to support electoral management bodies worldwide to promote transparency and quality of their management systems via the electoral standards set in the context of the International Organisation for Standardisation (ISO)¹⁰. ECES and IEAB are collaborating to support

certification processes for interested EMBs in Africa, the Middle East and other regions or countries where ECES implements activities and projects. This process guarantees a contribution of transparency through audit and certification of all electoral steps outside the election period. This should result in an increase of confidence among the electorates and electoral stakeholders, thereby consolidate the reputation of certified EMBs among the international community and local actors targeting as well as prevention, mitigation and management of electoral conflicts.

On the long term capacity development side, ECES and Sant’Anna School of Advanced Studies of Pisa (SSSA) signed a Memorandum of Understanding to establish a framework of collaboration aimed to: a) Develop and conduct **customised, accessible and innovative capacity building programmes** for current and aspiring election administrators and practitioners; b) Increase the **accessibility of knowledge tools/capacity building programmes** through the updating and upgrading of the ECES-SSSA existing training curriculum including translation and customisation.

The ECES-SSSA collaboration will mainly allow mid-upper level electoral professionals, practitioners and other interested electoral stakeholders to enroll and attend the “**on line Master on Electoral Policy and Administration (MEPA)**”¹¹ or any of the 19 individual modules of MEPA, which are based on the electoral cycle approach. The collaboration between ECES and SSSA will result



8 EEAS Mediation Factsheet 2013, Support Project – [Knowledge Product Mediation and Dialogue in Electoral Processes to Prevent and Mitigate Electoral Related Violence](#)

9 <http://www.eces.eu/en/posts/eurecs>

10 <http://www.eces.eu/iso-certification>

11 <http://www.eces.eu/posts/eces-sssa-on-mepa>

in the update and upgrade of MEPA's content, including the customisation of modules as per identified needs. This includes the ongoing translation of MEPA curriculum into Arabic, French, Portuguese and Spanish.

ECES-SSSA signed already an agreement with the Independent Election Commission of Jordan (IEC) for selected senior electoral administrators to enroll at the MEPA and take part in other activities. The trilateral agreement between ECES-SSSA and IEC will also support the translation of MEPA curriculum into Arabic via the EU funded Programme 'EU Support to Jordanian Democratic Institutions and Development (EU-JDID)'.

This on line Master Programme, at the moment available only in English, is based on the 2014 International IDEA designed 'Model Curriculum – Master of Electoral Policy and Administration' and on the concept of the 'electoral cycle approach' as presented in the Methodological Guide of Electoral Assistance of the European Commission and the Handbook on Electoral Management Design of International IDEA. MEPA is hosted in the e-learning platform developed by the United Nations Institute for Training and Research. Among the 19 modules, several are very pertinent to the prevention of electoral conflicts such as: Voter Identification/Voter Registration, Electoral Legal and Regulatory Framework, Managing Boundary Delimitations, Elections & Technology, Electoral Integrity & Malpractice, Electoral Security and Electoral Justice. In the context of electoral conflict prevention, these topics are quite relevant and should be given due attention.




The last words must be dedicated to the symbology ECES decided to bring at the seminar of the EU Parliament of July 2017 to illustrate a peace and hope message from an African artist. Since the prevention of election related conflict and violence is multifaceted, ECES have chosen to collaborate with **Mozambican artist Gonçalo Mabunda**¹² in the framework of the launch of the handbook and organize a side event called **"Transforming Weapons into Arts"**.

Other ECES' Management Board members and I, had the possibility to meet a young Mabunda back in 2001 when he was at the beginning of his art career but already known for using Kalashnikovs, rockets, pistols, and shell casing in order to make anthropomorphic figures out of the deconstructed weapons. The figurines were also representative of the over 1 million people killed during his country's civil war that ended with the elections held in 1994 after Peace Agreement signed in Rome in 1992. He is also famous for making thrones and masks out of these deactivated weapons based on traditional Sub-Saharan African masks.

Mabunda is today an internationally known and acclaimed artist. He is an anti-war activist that has exhibited in the most important museums of the world such as the Center Pompidou in Paris, the Venice Biennale, the Museum of Art

and Design in New York, the Museum Kunst Palast in Dusseldorf, the Hayward Gallery in London, the Mori Art Museum in Tokyo, the Johannesburg Art Gallery and many more.

Representing power, Mabunda's thrones mocks how the traditional power rests on weapons. By using weapons, his work carries the message of how further violence can be prevented, and that destroying the weapons of war can be done in an aesthetic and artistic way. As such, Mabunda's art directly challenges the absurdity of wars that in many cases in the last decades in Africa were prevented by holding credible multiparty elections. Mabunda's work was exhibited to round off ECES seminar and the artwork added a visual layer to the activities undertaken by ECES especially in the context of this seminar to prevent electoral violence and conflicts.


Fabio Bargiacchi
 ECES Executive Director

12 Source Wikipedia: https://en.wikipedia.org/wiki/Gon%C3%A7alo_Mabunda



A cross-section of participants in a group photograph during the art exhibition



Judith Sargentini with Gonalo Mabunda



Monica Frassoni with Gonalo Mabunda



Filippo Amato, Lino Francescon and Jose Lambiza



Rindai Vava, Victoria Florinder and Granville Abrahams



Day 1 of the discussion on ECES' Conflict Prevention Handbook

CHAPTER I

ELECTORAL CONFLICT PREVENTION FRAMEWORK

1. Handbook Purpose and Goal

The European Centre for Electoral Support (ECES) has been implementing the multi-country project entitled "Preventing Election Related Conflict and Violence in the SADC region" (PEV SADC). The PEV SADC project is funded at 75 percent by the European Union (EU) and 25 percent by ECES. The implementing partners, ECES and the Electoral Support Network of Southern Africa (ESN SA), have implemented the project since March 2013 in collaboration with 16 member organisations at the national level representing 14 SADC countries.

The overall objective of the project was to prevent election-related conflict and potential violence in the Southern African region, through support to the regional umbrella organisation ESN-SA. The first specific objective of the project was to strengthen the capacity of member Civil Society Organisations (CSOs) and stakeholders in mitigating election-related violence and conflict prevention. The second objective was to support the establishment of an Observatory of electoral conflict and potential violence and carry out research and sensitisation in order to prevent and mitigate election-related conflicts at all levels and advocate for legislative enforcement for electoral dispute resolution.

The geographical scope of the project covered fourteen SADC countries namely: Angola, Botswana, Democratic Republic of Congo (DRC), Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, South Africa, Swaziland, the United Republic of Tanzania (URT), Zambia and Zimbabwe.

During the course of the Project, no less than fourteen SADC elections and almost double the number of local elections took place. The partnership was built through its vast platform, opening avenues to prevent election-related conflict with increased efficacy and long-term impact. Over 30 capacity enhancing workshops were run, using the BRIDGE (Building Resources in Democracy, Governance and Elections¹) and LEAD curricula (Leadership and Conflict Management for Electoral Stakeholders²). Over 800 individuals received capacity enhancing training in the framework of the PEV SADC Project, amongst whom at least 250 were trained as trainers in either of the above-mentioned curricula. Each country had a national action-plan including in-depth mapping of stakeholders and strengths and weaknesses of key actors dealing with elections through the needs assessment reports.

Furthermore, the Observatory consisting of fourteen researchers from SADC region and peers from other regions of Africa and Europe collected data on the prevalence of election-related conflict in the SADC countries. The research has fed into the LEAD curriculum as practical illustrations of election-related conflicts across the SADC region.

A first Observatory meeting was held in Gaborone at the end of 2015. The joint work during the five-day

1 **BRIDGE** represents a unique initiative where five organisations in the democracy and governance field have jointly committed to developing, implementing and maintaining the most comprehensive curriculum and workshop package available, comprising 24 modules, designed to be used as a tool within a broader capacity development framework. The five BRIDGE partners are the Australian Electoral Commission (AEC), International IDEA, International Foundation for Electoral Systems (IFES), United Nations Development Programme (UNDP) and the United Nations Electoral Assistance Division (UNEAD). <http://www.bridge-project.org/en/>

2 The **Leadership and Conflict Management skills for Electoral Administrators (LEAD)** is an ECES-developed methodology, which entails both a training of facilitator and a cascade component. It promotes skills in the crossroads between leadership, election-related violence and conflict prevention. Three crucial leadership skills can be disentangled: vision (ability to set direction, diagnosing and analysing problems and grasping essential aspects of the developments), competence (ability to make decisions, create alignment and motivate their staff and collaborators) and integrity (capacity to maintain commitments, keep promises and ensure consistency between values, actions, expectations and outcomes). <http://www.eces.eu/lead-training>

meeting led to the finalisation of the national chapters, already peer-reviewed by the researchers from the region. This handbook is thus the consolidated work of ECES' lessons learned from the implementation of 57 projects in less than 6 years, mainly but not exclusively, with EU or EU member state funding with specific national chapters provided by the Observatory – a PEV SADC output. The handbook describes and analyses election-related conflicts that have been taking place in the SADC region in recent years and focusing on their root causes. It also suggests ways to prevent, mitigate and manage conflict during the electoral cycle, focusing particularly on early warning mechanisms.

This regional handbook provides a comprehensive, up-to-date and practical guide that will be useful to electoral stakeholders and development partners involved in combating election-related conflict and potential violence. It analyses root causes and triggers, outlines hands-on solutions for different types of violence and provides a range of case studies reflecting on the lessons learned by the SADC-ESN and other CSOs that have worked in this field.

The handbook can serve as a solid reference tool for electoral stakeholders and development partners that are, or seek to become, involved in the field of promoting peaceful electoral and democratisation processes in the SADC and beyond. The contents of the handbook have been developed based on the initial needs assessment mission carried out by the PEV SADC project, the EU Election Observation Mission recommendations (EU EOM) in each country, the identified academic and practical gaps and the experiences of having implemented conflict management capacity building workshops in almost all SADC countries. The research needs and priorities were defined as:

- i) A general introduction to ERV (i.e. definition, timing, perpetrators, victims, motives, methods, extent, context and effects);
- ii) The SADC experience of election-related conflict and violence “state of the art” situation, including cross-country comparison; strategies for preventing ERV focused on stakeholder engagement;
- iii) Presentation of case studies from the work carried out by various electoral stakeholders in the region and lessons learned (i.e. the use of conflict management panels, working with political parties and codes of conduct, early warning systems, etc.);
- iv) Conclusion and actionable recommendations targeting both international development partners, most notably the EU and EU member states and national and regional institutions and bodies.

The PEV SADC project was designed and implemented in the spirit of the Gaborone Declaration³ of the Fifth Global Electoral Organization (GEO) meeting, held in March 2011 in the capital of Botswana. The draft principles of the Gaborone Declaration were prepared, among others by Commissioners and representatives of the Election Management Bodies of the Democratic Republic of Congo, Mozambique, Sierra Leone, Zambia and the Electoral Commission Forum of the South African Development Community (ECF-SADC). The Fifth GEO meeting brought together over three-hundred participants from all over the world to discuss and agree upon this Declaration.

According to the European Response to Electoral Cycle support initiative (EURECs)⁴ developed by ECES and members of the European Partnership for Democracy (EPD), the key points of the Gaborone

3 International IDEA, 2011, Fifth Global Electoral Organization Conference Credible Elections Democracy, <http://www.idea.int/publications/catalogue/fifth-global-electoral-organization-conference-credible-elections-democracy>

4 <http://www.eces.eu/template/EURECS%20-%20A%20European%20Response%20to%20Electoral%20Cycle%20Support.pdf>

Declaration emphasise the universal value of electoral processes and their interdependence, with an added focus on the detrimental consequences of electoral mismanagement. It recommends a greater focus on strengthening and professionalising electoral institutions. The declaration also establishes that activities focusing on preventing election-related violence and on promoting gender equality (in political participation pertaining to electoral processes, especially regarding, but not only limited to voting) are equally important. Indeed, women can not only become targets of violence, but they can also avoid social spaces altogether in the midst of conflict and thus be indirectly affected by violence by not turning out to vote or participating in other political or election-related activities.

2. Defining Electoral Violence and the Research Framework

The most common definition of electoral violence was made by Jeff Fischer in 2002: *“Electoral conflict and violence can be defined as any random or organized act or threat to intimidate, physically harm, blackmail, or abuse a political stakeholder in seeking to determine, delay, or to otherwise influence an electoral process”*⁵.

This handbook adopted a liberal and relative approach regarding definitions and does not impose one strict definition in the national chapters given the vast differences in interpretation. The case studies adopt common definitions and different ones at macro-and micro levels, about physical, social, psychological violence, etc. Each case study explains the definition and often discusses the relativity of the concept as well as the issues around capturing conflict and violence through data and how perceptions matter in documenting atrocities.

It is believed that concepts such as election-related conflict are dynamic and evolved over time. For example, when this multi-country research exercise was undertaken, the concept of “slow violence” was not well known, however, its fame has since kept on growing. In his book: *Slow Violence and the Environmentalism of the Poor*⁶ published in 2013, Rob Nixon explains how *“the violence wrought by climate change (...) and the environmental aftermath of war takes place gradually and often invisibly”*. The author focuses on the lack of attention *“paid to the attritional lethality of many environmental crises”*. The concept of Slow Violence is used for readily ignored consequences of activities and trends that exacerbate the vulnerability of ecosystems and of poor people, *“disempowered, and often involuntarily displaced, while fuelling social conflicts that arise from desperation as life-sustaining conditions erode”*.

This concept of Slow Violence can be applied to the field of democracy. It can explain and cover the violent aspect of blocked avenues for ethnic minorities, socially excluded or marginalised groups (youth or women, etc.) to express views, access democratic power and the public space. It may also explain the links between elections, democracy and migration and the vulnerability of those deprived of political rights and their relationship to public goods.

3. A Regional Journey About Preventing Electoral Violence

The SADC region is relatively more peaceful and stable than the rest of the continent but has recurrent issues with regular tensions around elections and a distinct political culture forged during the freedom struggle that is rather elevated in its competitiveness, often linked to political economy and access

5 Fischer Jeff, 2002, International Foundation for Electoral Systems, White Paper, “Electoral Conflict and Violence. A Strategy for Study and Prevention”, <http://unpan1.un.org/intradoc/groups/public/documents/untc/unpan019255.pdf>

6 Nixon Rob, 2013, “Slow Violence and the Environmentalism of the Poor”, <http://www.hup.harvard.edu/catalog.php?isbn=9780674072343>

to resources. It is also characterised by a strong moral bond between parties and citizens. SADC's democratic journey has never been smooth, but the trend still remains positive overall. However, as of late, recent elections have reignited a general climate of mistrust by broad sections of the public towards electoral management bodies.

About Trust

In any political regime, the concepts of trust and legitimacy are fundamental to stability.

The trust of citizens towards national electoral commissions in a specific country is an important indicator to understand the degree of trust towards democratic institutions in general. Francis Fukuyama defines trust as *"the expectation that arises within a community of regular, honest, and cooperative behaviour, based on commonly shared norms, on the part of other members of that community"*⁷.

The Afrobarometer survey offers interesting tools and published its latest round of surveys regarding African citizens trust in democracy in October 2016. The SADC region remains among the top in Africa with nine⁸ countries (in that order: Namibia, Mauritius, Tanzania, Botswana, South Africa, Malawi, Swaziland, Lesotho and Madagascar) above the African average of citizens declaring trusting the national electoral commissions "a lot" or "somewhat". Three countries (Mozambique, Zambia and Zimbabwe) are below the average line. Three countries are not covered by the latest round of Afrobarometer (Angola, DRC and Seychelles). However, relatively large groups of the population remain in distrust towards the Electoral Commissions, with at least 10% of them answering "not at all" to the question of trust. Only Namibia is performing below the 10% bar with 7%.

One can conclude that trust is relatively spread across the region, in a generalised sense but distrust in elected institutions remains quite strong. Other matters, not surveyed in the Afrobarometer, related to civic and voter education, showed that majority of citizens in Zanzibar did not know that Zanzibar elections were conducted by its own independent electoral commission (ZEC) (ILPI Zanzibar brief - June 2015).

The Historical Journey

The Southern African Development Community (SADC) is a regional organisation made up of fifteen member states. Five countries experienced liberation wars for independence against white-minority rule regimes: Angola, Mozambique, Namibia, South Africa and Zimbabwe. Three countries were supported in these wars through an organization called the Frontline States made up of Botswana, United Republic of Tanzania and Zambia.

Mozambique and Angola were under the control of Portugal and had to cope with decades-long civil wars following their independence. Seychelles and Mauritius experienced French and British colonial rules; Tanzania: German and British; Namibia: German and South African; Madagascar: French; Botswana, Malawi, Zambia, Zimbabwe, South Africa, Lesotho, Swaziland: British; and, DR Congo: Belgian.

In 1980, a Southern African Development Coordination Conference (SADCC) convened⁹ in Zambia to promote economic cooperation among Southern African states to counterbalance the economic power of Apartheid South Africa. When the Apartheid regime started to collapse, along with the end of the

7 Fukuyama Francis, 1995 "Trust: The Social Virtues and the Creation of Prosperity"

8 Afrobarometer, 2016, "African Citizens Have Very Low Levels of Trust in How Elections Are Run", <http://afrobarometer.org/fr/blogs/african-citizens-have-very-low-levels-trust-how-elections-are-run>

9 SADC, "History and Treaty", <http://www.sadc.int/about-sadc/overview/history-and-treaty/>

Cold War, Namibia became independent in 1990. In 1992, the SADCC was transformed in Windhoek, Namibia, into the Southern African Development Community (SADC). South Africa joined the year of its first non-racist and democratic elections in 1994, and Mauritius the following year. The organisation welcomed the Democratic Republic of Congo during a period of turmoil in 1997, and the same year Seychelles also joined. Finally, Madagascar became the most recent member in 2005.

Year of membership	Southern African Development Coordination Conference	Southern African Development Community
Angola	1980	1992
Botswana	1980	1992
DR Congo	N/A	1997
Lesotho	1980	1992
Madagascar	N/A	2005; suspended in 2009 – return in 2014
Malawi	1980	1992
Mauritius	N/A	1995
Mozambique	1980	1992
Namibia	1990	1992
Seychelles	N/A	1997 to 2004 and since 2008
South Africa	N/A	1994
Swaziland	1980	1992
Tanzania	1980	1992
Zambia	1980	1992
Zimbabwe	1980	1992

Comoros and Burundi have applied in recent years to join the organisation.

There is a common history shared by SADC countries in terms of political regimes and political history. Some common features include: (i) all countries were previously colonies and/or protectorates of European states; (ii) all countries are independent now, and; (iii) all countries organize elections regularly.

Despite key common features, SADC countries also have strong differences when it comes to its political trajectory. By 2017, only six countries out of the fifteen in the region have experienced a change in power through elections in the post-colonial era.

Country	Transfer of power through elections in post-colonial times
Angola	N/A
Botswana	N/A
DR Congo	N/A
Lesotho	2 times: 2012; 2015.
Madagascar	2 times: 2001; 2013
Malawi	3 times: 1994; 2004; 2014.
Mauritius	4 times: 1995; 2000; 2005; 2014.

Mozambique	N/A
Namibia	N/A
Seychelles	1 time: 2016
South Africa	N/A
Swaziland	N/A
Tanzania	N/A
Zanzibar	4 times: 1985; 1990; 2000; 2010
Zambia	4 times: 1991; 2001; 2008; 2011
Zimbabwe	1 time: 2008

Most of the SADC countries are still ruled by the party that came to power through the first elections just before or following independence (e.g. BDP since 1965 in Botswana, FRELIMO since 1975 in Mozambique, SWAPO since 1990 in Namibia) or with the advent of full electoral democracy (e.g. the ANC since 1994 in South Africa).

Three out of the fifteen SADC countries have had the same heads of state for 30 years or more: King Mswati III in Swaziland since 1986, President José Eduardo Dos Santos since 1976 and President Robert Mugabe since 1987. The latter was previously Prime Minister, 1981-87; at the time, the position holding the real power over the Zimbabwean government.

Nonetheless, there is a “life after state house” for eleven out of the SADC countries. There are now twenty-six former heads of state and government alive in the SADC region from Botswana, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, UR Tanzania (both continental and Zanzibar) and Zambia.

Former and Alive Heads of State or Government		
Countries	Names of Former Presidents	Number
Angola	N/A	0
Botswana	Mogae	1
DR Congo	N/A	0
Lesotho (Prime Minister)	Thabane	1
Madagascar	Ratsiraka; Zafy; Ratsirahonana; Ravalomanana	4
Malawi	Muluzi; Banda; Mutharika,	3
Mauritius (Prime Minister)	Ramgoolam	1
Mozambique	Chissano; Guebuza	2
Namibia	Nujoma; Pohamba	2
Seychelles	René; Michel	2
South Africa	Mbeki; Motlhante	2
Swaziland	N/A	0
Tanzania	Mwinyi; Mkapa; Kikwete	3
Zanzibar	Mwinyi; Amour; Abeid Karume	3

Zambia	Kaunda; Banda; Scott	2
Zimbabwe	N/A	0

Only the Democratic Republic of Congo does not fall under any of the two groups described above. No heads of state or former heads of state serving for at least 30 years are still alive today.

A Regional Framework Governing Democratic Elections

In 2004, SADC developed Principles and Guidelines Governing Democratic Elections¹⁰. It was a new initiative in the region that created a framework for regional observers of national elections. The electoral framework was still seen as too vague and criticised after the 2008 elections in Zimbabwe, where SADC Electoral Observation Mission (SEOM) stated in June 2008 that *“The elections did not represent the will of the people of Zimbabwe”*¹¹ following the second round of the presidential elections. After months of a violent campaign, Morgan Tsvangirai, a candidate from the Movement for Democratic Change (MDC), pulled out of the elections. Robert Mugabe was unchallenged in the second round.

One of the main issues of the first edition of SADC guidelines was the absence of clear criteria for elections to be “credible, free and fair”, terms used by SADC in its SADC Election Observation Missions (SEOM) preliminary report to validate observed electoral processes. The SADC then started a process to reform its electoral tools and mechanisms. A SADC Electoral Advisory Council was founded in 2010, as a permanent body to oversee and monitor elections and the electoral environment¹². A mediation unit was created that same year and some years later it was followed by an electoral unit. The SADC has developed links between its electoral unit and mediation work that can be implemented immediately to diffuse tension during SEAC missions. The methodological guidelines are not yet fully established, but it represents an opportunity to prevent and mitigate election-related conflict through the EOMs – something that is largely still unexplored in other parts of the world, including in Europe where a clear distinction between hands-on and hands-off policies defines the mandate of various EU funded electoral support activities, mainly electoral assistance and election observation.

In the 2004 version of the SADC Guidelines, the word “violence” did not appear and the word “peaceful” appeared only once. It was stated that the *“SADC Member States shall be guided by the following guidelines to determine the nature and scope of election observation: 4.1.2 Conducive environment for free, fair and peaceful elections.”* Key terms were not defined and this created difficulties in understanding how terms were used in the SEOM’s preliminary statements to qualify observed electoral processes.

The review process of the Principles and Guidelines Governing Democratic Elections was decided and a formal process was launched in 2011. Consultations took a couple of years, and several well renowned electoral experts and CSOs were involved. In the end, the document was negotiated and agreed among Member States’ officials and contains many improvements in comparison to the 2004 document.

In 2015, SADC adopted revised Principles and Guidelines Governing Democratic Elections¹³. It provides regional norms to *“Promote the holding of regular free and fair, transparent, credible and peaceful democratic elections to institutionalise legitimate authority of representative government”*. The new

10 SADC Principles and Guidelines Governing Democratic Elections, 2004, <http://www.oldsite.idea.int/africa/southern/upload/The-SADC-Principles-and-Guidelines-Governing-Democratic-Elections.pdf>

11 SADC Election Observation Mission, Preliminary Statement Zimbabwe Presidential Elections 2008,

<http://aceproject.org/regions-en/countries-and-territories/ZW/reports/zimbabwe-preliminary-statement-by-sadc-2008>

12 SADC Electoral Advisory Council (SEAC), <https://www.sadc.int/sadc-secretariat/services-centres/sadc-electoral-advisory-council-seac/>

13 SADC Principles and Guidelines Governing Democratic Elections, 2015, <https://eisa.org.za/pdf/sadc2015principles.pdf>

document provides a better technical framework and definitions of the terms. In addition, the word violence appears more times in the document and key terms are now defined:

*“Fair (elections)” means ‘electoral processes that are conducted in conformity with established rules and regulations, managed by an impartial, non-partisan professional and competent Electoral Management Body (EMB); in an atmosphere characterised by respect for the rule of law; guaranteed rights of protection for citizens through the electoral law and the constitution and reasonable opportunities for voters to transmit and receive voter information; defined by equitable access to financial and material resources for all political parties and independent candidates in accordance with the national laws; and where there is no **violence**, intimidation or discrimination based on race, gender, ethnicity, religious or other considerations specified in these SADC Principles and Guidelines Governing Democratic Elections.”*

*“Peaceful” means “electoral processes are punctuated by calm; are undisturbed and untroubled by **violence** or intimidation; are conflict-free and generally exude an atmosphere where all citizens are free and unhindered to express their right to vote; are able to offer themselves without intimidation for election, communicate freely their electoral choices; and enjoy freedom of assembly and association.”*

This represents a major improvement in terms of handling of electoral violence by SADC. Beyond these definitions, the revised guidelines clarify the role of the SEAC in pre, during and post election period. The conditions for SADC Long Term Observers (LTOs) are also clearly stated. The presence of observers, and especially long term observers can contribute to easing a tense political situation. The SADC adopts the electoral cycle approach.

One of the reasons behind these improvements was for SADC to secure electoral performance, providing further prospects of complementing existing mechanisms focused on ensuring regional stability such as early warning systems, conflict prevention and conflict mediation initiatives. A key persisting question is “will countries accede to the new guidelines?”¹⁴.

Eventually, it is worth noting that unlike their preliminary statements, SEOM final electoral reports are not public. It is largely seen as an area that may need revision in the new guidelines. These reports include recommendations to improve electoral processes. Their absence from the public space hinders the positive role that citizens and CSOs could play to support the implementation of these reforms and the consequent awareness-raising. However, as stated in the SADC chapter of this handbook, “recent structural changes to the regional normative framework for elections by the SADC might provide opportunities for non-state actors to position their knowledge products and expertise to inform various inter-related regional processes ranged at peace building”.

Elections have a particular function in SADC’s conflict resolution and mediation toolbox. The SADC has publicly and officially intervened in three member states in recent years in response to political and electoral crises: in Lesotho in 2007-2012 and 2014-present, in Zimbabwe 2007-2013 and in Madagascar 2009-present. The three cases are presented in more detail in the national chapters. However, it is important to note that elections and electoral violence have attracted massive energy and funds from SADC actors in these three cases. Every time, the SADC used elections as an exit strategy tool. Most of the work of SADC mediation teams and the pressure from the other countries were pushing towards the organisation of peaceful elections to put an end to a political crisis. This is largely explored in the

14 The Institute for Security Studies, 2016, “The 2015 SADC Election Guidelines, Can They Work?”, Chirambo Kondwani, Motsamai Dimpho, <https://issafrica.org/research/southern-africa-report/the-2015-sadc-election-guidelines-can-they-work>

Lesotho and Madagascar national chapters.

Major Societal Changes Impacting the Democratic Framework

One of the most well-known arguments in political science, generally attributed to Lipset¹⁵, is the modernisation hypothesis which states that rising income should lead authoritarian countries to become more democratic and democratic countries to consolidate. Lipset is often misrepresented in reducing his complex theory to a simplistic understanding of economic development in a narrow economic sense. In fact, he deliberately broadly argued that *“all the various aspects of economic development – industrialisation, urbanisation, wealth, and education– are so closely interrelated as to form one major factor which has the political correlate of democracy.”*¹⁶

SADC, like the rest of Africa, has experienced major wealth growth since 2000 mainly due to the needs of raw materials and the increase in commodities prices. The regional Gross Domestic Product (GDP) has increased¹⁷ by 85% between 2000 and 2016 based on a constant US\$ from the year 2000.

There is a debate about the growth of the middle class in Africa and more specifically within the SADC region¹⁸. Some studies show that the middle class has been growing but that upper classes are getting richer and that the gap between social groups is widening, meaning deep poverty remains pervasive, creating social tensions.

Furthermore, there is a massive global youth wave that has started to flood the SADC region and the wider continent. It is a major societal change¹⁹. 55% of eligible voters in the SADC region are between 18 and 34 years old and 61% of SADC citizens are between 0 and 24 years old. Most people in this region are born after the end of the Cold War, and more and more after the end of the civil wars in Mozambique, Angola and the end of Apartheid in South Africa – they are the so-called “the born free”. In some countries hit by the AIDS pandemic (South Africa, Swaziland, Botswana, etc.), the youth age groups are proportionally stronger than other age groups (people now in their 40s and 50s). These groups were severely impacted in the 1990s and early 2000s by AIDS-related death rates, which were higher due to the lack of awareness and lack of availability of antiretroviral medicines. In the SADC region, apart from the Indian Ocean countries, the oldest population is in South Africa where half of the population is below 26 years old. Many countries are even younger like Zambia where half of the inhabitants are under 17 years old. Nowadays six in ten people in the SADC region are 24-year-old or less.

This massive change represents a test for the current political systems in Southern Africa and the political parties, and these political tests have already started. In Botswana in 2014, during the general elections and the primaries preceding them, a major generational change took place through the ballot boxes. This was confirmed in the general elections in October 2014 with most MPs being below 50, which is still considered young in political terms. Thirty-two out of fifty-seven MPs were elected for the first time. This is a massive renewal of the political representatives, especially as the ruling party remains the same. It is a rare combination showing both the capacity of the ruling party and Botswana to adapt. The electoral

15 Lipset Seymour Martin, 1959, “Some Social Requisites of Democracy: Economic Development and Political Development”

16 Lipset Seymour Martin, 1960, “Political Man. The Social Bases of Politics”

17 African Development Bank, Socio Economic Database, 1960-2016, <http://knoema.fr/AFDBSED2016v1/afdb-socio-economic-database-1960-2016?tsld=1952540>

18 The Economist, October 22, 2015, “Africa’s Middle Class, Few and Far Between”, <http://www.economist.com/news/middle-east-and-africa/21676774-africans-are-mainly-rich-or-poor-not-middle-class-should-worry>

19 Kurtz Thibaud, 2015, “Youth, Southern Africa and the Big Demographic Change”, <https://horizonafrika.co/2015/11/02/youth-southern-africa-and-the-big-demographic-change/>

system in Botswana has proved itself able to absorb the demographic tension so far.

Questions remain for the whole region: can these major societal changes create tensions and electoral tensions specifically? And also, can the electoral systems prevent these changes from creating violence?

A More Competitive and Contested Electoral Environment

Since the early 1990s, there has been a regional trend in the countries politically dominated by the same ruling parties since independence. Their dominance is decreasing in the polls. This eroding situation shows a more competitive electoral environment for ruling parties.

See below a sample from Tanzania, South Africa and Botswana.

General elections¹	1999	2005	2010	2015
% of popular vote for the Chama Cha Mapinduzi (CCM) - Tanzania	65,19%	70%	60,20%	55,04%
General elections²	1999	2004	2009	2014
% of popular vote for the African National Congress (ANC) – South Africa	66.35%	69.69%	65,90%	62,15%
% of popular vote for the Botswana Democratic Party (BDP) - Botswana	57,15%	51,73%	53,26%	46,50%

Since the end of the Cold-War era, the independence of Namibia in 1990 and the first multiracial and democratic elections in South Africa in 1994, multiparty elections have become the norm and key features of democratic life within SADC region. Swaziland is a unique case where political parties are not allowed. This will be covered more in detail in the Swaziland national chapter. It is worthy of note that during the latest round of national elections, the electoral results were strongly contested in eight out of the fifteen SADC countries. 2011: DR Congo; 2012: Angola; 2013: Madagascar and Zimbabwe; 2014: Malawi, Mauritius and Mozambique; 2016: United Republic of Tanzania (Zanzibar) and Zambia.

European Cooperation: Know How About Dealing with Electoral Violence

ECES through the EU funded PEV SADC project has been able to identify and coordinate a team of researchers and affiliated entities throughout SADC to launch the Observatory and produce this handbook. The handbook embodies European know-how and the EU approach to coping with electoral violence. It further encapsulates ECES' strategic approach to the provision of electoral assistance activities, captured in "A European Response to Electoral Cycle Support" (EURECS).

As an economic and political union consisting of 28 members that cooperate in several sectors, the EU is one of the main international actors active in the promotion of democracy and human rights at a global level. The EU has developed several tools to enhance respect for human rights and fundamental freedoms in countries and regions where they are most at risk.

To date, more than two hundred electoral assistance projects have been formulated and implemented with EU funding, contributing to electoral processes in over one hundred countries worldwide. Since 2004, the EU has provided between €80 and €140 million annually for electoral assistance. The financial instruments that the EU is currently using to fund electoral (and democracy) assistance are:

The European Development Funds (EDF), European Neighbourhood Instrument (ENI), the European Instrument for Democracy and Human Rights (EIDHR), the Development Cooperation Instrument (DCI), the Civil Society Organisations and Local Authorities programme (CSO-LA), the Instrument contributing to Stability and Peace (IcSP) and EU Trust Funds.

The EU has funded ECES projects using different financial instruments, but this specific project was funded by the EU Instrument for Development Cooperation (IDC). ECES also received other funding from the EU for projects in the SADC Region including the PACTE Madagascar Project and its extension through the European Development Fund (EDF); and INCIPALS Project in Madagascar funded by EU's Instrument contributing to Stability and Peace (IcSP) to name only a few.

Another example of EU know-how that ECES and this Project benefited from is the search for synergies with projects across the SADC region in support of electoral processes, conflict management and capacity development to harmonise and avoid duplication of efforts. The EU-supported initiatives such as the *Conflict Prevention Management and Resolution Programme* in the Eastern and Southern African Region²⁰ are particularly relevant in this respect. Further projects such as the *Project in Support of the Electoral Cycle in Democratic Republic of Congo*²¹, *Supporting the Electoral System in Zambia*²² and *Consolidation de la démocratie: Projet d'appui à la protection des libertés et droits fondamentaux (APDLF)*²³ and *Ecole de citoyenneté*²⁴, both in Madagascar, as well as *Strengthening Civil Society Engagement in Education* in Mozambique²⁵ were taken into account to ensure that the PEV SADC Project capitalised on other EU funded initiatives to ensure complementarity and avoid duplication.

The joint efforts and complementarity of the EU and EU member states and the PEV SADC project implementing by ECES is based on the high-level of knowledge and expertise within SADC region. Any project in the field of electoral assistance within SADC can only be sustainable and efficient by contributing to the improvement of regional expertise networks and peer-learning. It is based on the assumption that subsidiarity is an important concept and that regional actors can play a positive role in national contexts. This also leads to assist SADC region's contribution to the development of international democratic norms.

The concept of Early Warning Mechanism (EWM) is key to the PEV SADC Project. The Project was designed with the aim of creating an EWM for the SADC region in the field of electoral violence and was made possible thanks to ECES and the ESN-SAs vast network in the region coupled with EUs expertise in this field. EU has supported many Early Warning Mechanism projects to contribute to the prevention of conflict and at times linked it particularly to elections. EU and EU Member States supported, with the resources available at the time, the shift from the apartheid regime in South Africa. Sweden was one of the first countries visited by the first democratically elected President Nelson Mandela as a token of respect for the country's support towards a free and democratic South Africa. EWM was key to South Africa's trajectory towards freedom and the mechanism is largely used by the independent electoral commission today as a conflict prevention mechanism.

In November 2012, the European External Action Service (EEAS) developed a Factsheet called the *EEAS*

20 http://eeas.europa.eu/delegations/zambia/projects/list_of_projects/18472_en.htm

21 http://eeas.europa.eu/delegations/congo_kinshasa/documents/eu_rdc/031_02_cycle_electoral_fr.pdf

22 http://eeas.europa.eu/delegations/zambia/projects/list_of_projects/projects_en.htm

23 http://eeas.europa.eu/delegations/madagascar/projects/list_of_projects/244220_fr.htm

24 http://eeas.europa.eu/delegations/madagascar/projects/list_of_projects/255336_fr.htm

25 http://eeas.europa.eu/delegations/mozambique/projects/list_of_projects/171490_en.htm

*Mediation Support Project – Knowledge Product Mediation and Dialogue in electoral processes to prevent and mitigate electoral related violence*²⁶. It was based on the EU Concept on Strengthening Mediation and Dialogue from 2009 and it insisted on the prevention of electoral disputes, stating that “preventive mediation and political dialogue can help prepare the ground for peaceful elections through building the social climate for successful elections, breaking deadlocks and reducing the likelihood of violence and of outcomes that are perceived as illegitimate”.

It supported the idea that the EU can assist in the setting-up “of local electoral mediation panels as part of local infrastructures for peace, consisting of trained individuals that reach out through dialogue, work towards a friendly electoral atmosphere, resolve conflicts through mediation and can act as providers of early warning signs. Such panels should be formed in advance and work closely with electoral management bodies. The electorate needs to be fully informed of their existence, referring to EISA mediation panel model²⁷ as a good example.”

“When it comes to conflict and electoral related violence, it is highly recommended to have joint, coordinated approaches between electoral and mediation actors.

Also, countries at risk of electoral violence, electoral assistance should include the development of violence prevention and mitigation strategies, such as working with the EMB to develop an EWM or training central and regional electoral authorities in conflict sensitivity, prevention and mediation techniques. Such prevention and mitigation strategies should be developed and in place well ahead of election day.”

4. On Early Warning

Since the 1990s, expertise has been developed worldwide to shift the focus from conflict resolution towards prevention²⁸. The idea of developing Early Warning Mechanisms has become fashionable. Many international cooperation actors have developed their own paradigm about EWM. Most of the time, the EWMs are restricted to the field of war, but they can easily be brought into the electoral field. Here is a selection of key actors and their publications about EWM:

In 2009, the Organisation for Economic Cooperation and Development (OECD) published: *Conflict and Fragility Preventing Violence, War and State Collapse, the Future of Conflict Early Warning and Response*²⁹. The positive role of early warning approach around elections is highlighted in Timor-Leste and Kenya.

In 2010, the African Union (AU) Panel of the Wise published: *Election-Related Disputes and Political Violence*³⁰. The AU framework and approach to election-related conflicts is five-pronged, namely (a) Early Warning and Preventive Diplomacy; (b) Election Observation and Monitoring; (c) Post-Election Mediation; (d) Technical and Governance Assistance; and (e) the Post-Conflict Reconstruction and Development (PCRD). It recommended for more coordination between AU and Regional Bodies (e.g. SADC, etc.) and to focus on (a) Election Management Bodies; (b) Political Parties; and (c) Civil Society Organisations. CSOs were recognised and cooperation with them was highly valued.

²⁶ http://eeas.europa.eu/archives/docs/cfsp/conflict_prevention/docs/2013_eeas_mediation_support_factsheet_electoral_process_en.pdf

²⁷ <https://www.eisa.org.za/index.php/cso-and-party-participation/>

²⁸ Gareth Evans, former International Crisis Group President, <http://www.gevans.org/speeches/speech108.html>

²⁹ OECD, 2009, “Preventing Violence, War and State Collapse, the Future of Conflict Early Warning and Response”, <https://www.oecd.org/dac/conflict-fragility-resilience/docs/preventing%20violence%20war%20and%20state%20collapse.pdf>

³⁰ International Peace Institute, July 2010, “Election-Related Disputes and Political Violence Strengthening the Role of the African Union in Preventing, Managing, and Resolving Conflict” <http://www.peaceau.org/uploads/au-electionviolence-epub.pdf>, Report of the AU Panel of the Wise

In 2013, the European Peacebuilding Liaison Office (EPLO) in its report: EU Support to Peace Mediation: Development and Challenges³¹, recommended that the EU adopt a comprehensive approach to regional aid support programmes about EWM tools.

In 2013, the International IDEA, in its Electoral Risk Management Tool (2013)³² recommended the adaptation of the concept of full electoral cycle to the legal and institutional frameworks to prevent electoral violence before and after election day.

From these publications and others, the fundamental point is to put mediation at the centre of the approach and ensure a coordinated approach between electoral and mediation actors when it comes to conflict/electoral related violence. Tools that identify risks of election violence are more efficient than management-mechanisms trying to solve consequences of electoral violence and conflict. They include the development of violence prevention and mitigation strategies such as the development of early warning systems within electoral management bodies and among them in a regional framework. Trainings in conflict sensitivity and prevention and mediation techniques of electoral bodies are necessary. It is important to put these prevention and mitigation strategies in place long before election day.

31 http://eplo.org/wp-content/uploads/2017/04/EPLO_Policy_Paper_EU_Support_to_Peace_Mediation.pdf

32 *The Guide on Action Points for the Prevention and Mitigation of Election-related Violence*

A solid green background with a white wavy line separating it from the white background below.

CHAPTER II

CASE STUDIES

Regional SADC & Botswana
Author : Kondwani Chirambo

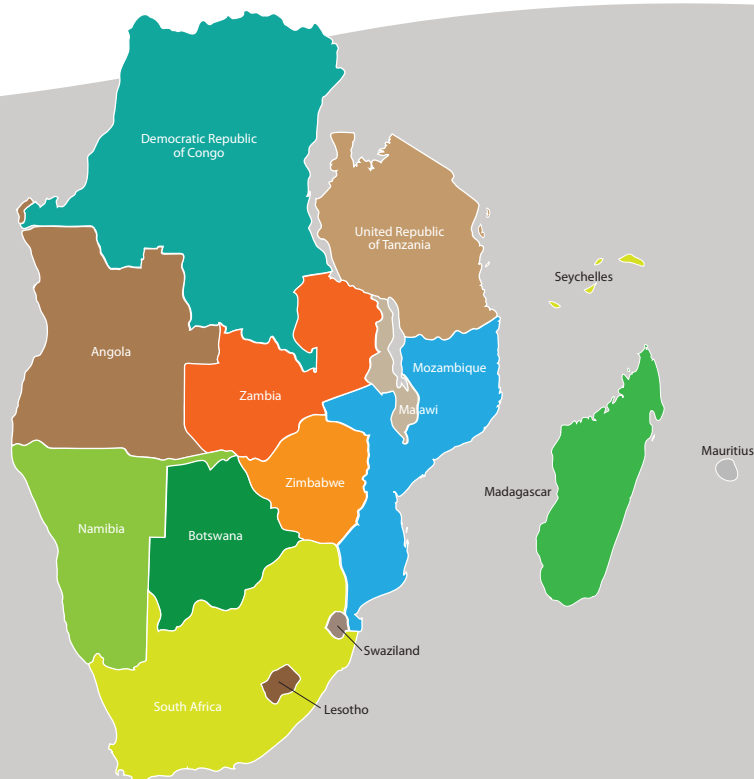
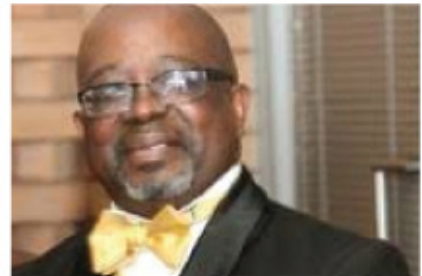


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Section I - Preventing Electoral-Related Violence in the SADC Region

1.1 Introduction

This regional chapter explores the antecedents of electoral-related violence in southern Africa with a view to unmasking the manner in which international and regional norms and standards of elections interact with national jurisdictions to respond to conflict. The results will support the capacity building and conflict management endeavours of the *Preventing Electoral Violence in the countries of the Southern African Development Community (PEV SADC) project* - an initiative of the European Centre for Election Support (ECES) and its partners. The systematic data-gathering exercise is expected to lead to the creation of a data-bank, enabling the formulation of appropriate mitigation strategies. It is noted that ECES and its partners seek, ultimately, to establish an Electoral Observatory primed to monitor the electoral cycle and serve as a form of early warning system.

To this end, the chapter foregrounds United Nations (UN) Treaty Law and related jurisprudence in order to illustrate how international obligations have fashioned regional normative frameworks ranged at conditioning the conduct of democratic elections nationally. To understand the character of international obligations in this regard, the chapter categorises international/regional norms and standards into three broad classifications:

- **Treaty standards:** International/regional instruments that constitute legal obligations for state parties (IDEA, 2014; Norris, 2012; EC; 2007);
- **Non-Treaty standards:** commitments by governments that are not legally binding but carry significant political and moral force;
- **Political commitments, recommendations:** Pledges or proclamations by either governments or organisations with regional mandates, which do not carry political or legal force, but have the effect of shaping adherence to commonly held universal values governing elections and democratic governance (ibid).

The chapter largely focuses on the nexus between Treaty standards and non-treaty standards on the one hand; and regional election observation and conflict prevention on the other. It notes, for instance, that as an activity informed by international norms and standards, and designed to build peace, election observation influences the behaviours of political contestants, often leading to de-escalation of violence, reducing abuse of the process and inflammatory language in addition to building trust among stakeholders [UN, 2005]. It asserts further that there is a mutual benefit to strategic collaboration between the research based activities of non-state actors and the supranational mechanisms responsible for peace building and security in the region. In order to appreciate the antithetical notion of non-violent elections, the case of Botswana is juxtaposed in this discussion to provide some insights into the country's enduring legacy of peaceful democratic elections. As such the chapter's main objectives are as follows:

- To provide an overview of what constitutes international/regional norms and standards of elections; and identify the strategic elements that may assist in preventing electoral-related violence;
- To demonstrate, where possible, how regional influence has come to bear on national situations in mitigating electoral-related violence;
- Illuminate the geographical spread, trends and national experiences of electoral-related violence, in order to identify root causes;
- Identify key regional platforms that could facilitate evidence-based dialogue and contribute to the

overall goals of the PEV SADC Project.

Fore-mostly, the PEV SADC project is timely as it coincides with rising concerns about the escalation of electoral-related violence in periods before, during and after elections, which has led to instability in countries such as Lesotho, Madagascar and Zimbabwe in the recent past, uprooting fragile coalitions, generating low level conflict, triggering forced migration and displacement of peoples and generally posing a threat to a sustainable peace and stability in the region as a whole.

In this regard, it is noteworthy that governments have invested a considerable amount of resources in fostering an environment of peace, security and stability since the transformation of the Southern African Coordination Conference (SADCC), created in 1980, into the Southern African Development Community (SADC) in 1992. Historically, this vision was encapsulated in the ambitions of the Frontline States (FLS) – originally constituting Botswana, Tanzania and Zambia, before integrating other liberated nations into the fold. FLS's specific aims were to liberate the region and resist the devastating effects of colonisation and apartheid (SADC, 2010).

Emerging from a background of oppression, racism and conflict, and faced with the challenges of globalisation therefore, the region's leaders envisioned a shared future driven by political, economic and developmental integration of their economies and founded upon common democratic values and institutions. The signing of the SADC Treaty at Windhoek, Namibia in 1992 followed by the establishment in 1996, of the SADC Organ on Politics, Defence and Security Cooperation (OSPDC) at Gaborone, Botswana, underlined these aims.

SADC took a number of related steps to operationalize this vision, including restructuring its institutions in 1999; signing the SADC Protocol on Defence and Security Cooperation in 2001 and developing the Strategic Indicative Plan for the Organ (SIPO) to ensure regular monitoring and evaluation of its programs in all sectors; ratifying a Mutual Defence Pact; integrating the Southern Regional Police Chiefs Cooperation Organisations (SARPPCO) into the Inter-State Defence and Security Committee (ISDC); and creating units with complementary roles in the Regional Early Warning Centre (REWC), the Mediation Reference Group (MRG) and the Panel of Elders (ibid)

Although these institutional arrangements broadly deal with conflict, the notion that electoral-related violence specifically threatens regional peace and stability was placed in sharper relief in 2004 with the endorsement by the SADC Heads of State Summit of the first set of *SADC Principles and Guidelines Governing Democratic Elections*, which allowed for the observation of all electoral processes in the region as a means of sharing best practice and fundamentally to map and forestall undemocratic outcomes which tend toward political violence and instability.

SADC followed this up by creating a mechanism - the SADC Electoral Advisory Council (SEAC) - to ensure the 'scrupulous implementation' of the new normative framework for elections whose terms of reference (TORs) included advising the Organ on conflict prevention, elections and good governance. In 2015, after 10 years of varied experiences with successful and, sometimes, disputed electoral processes in the region, the SADC developed a more comprehensive set of *Principles and Guidelines Governing Democratic Elections*, which encapsulated civil society inputs for the first time, and was informed by the changing technological, security and legal environment surrounding democratic elections on the continent and globally. Adopted by the Ministerial Committee of the Organ (MCO) on 20 July 2015, the new normative framework introduces a *Long Term Election Observation methodology* to enable the expert assessment of the entire electoral cycle and serve as a bridge between electoral observation, electoral assistance and conflict prevention. This, essentially, enables the various SADC units dealing

with conflict prevention to benefit from systematic data collection and strategy formulation.

The extent to which these institutions have been able to map and forestall political violence and electoral violence in particular, is under-explored, largely due to the sensitivities surrounding access to supranational institutions. Similarly, research on electoral-related violence as tended to focus on the conflict-prone nations to the exclusion of the more stable states. It can be asserted however that states with a history of peace and stability will likely have lessons to share. In addition, they may exhibit inherent vulnerabilities which might require short or long term interventions. It is in this context that Botswana is cast in sharper relief.

1.1.1 Botswana

A founding Member of the FLS, SADCC and SADC, Botswana, where the regional body is presently headquartered, is well established as the longest enduring continuous multiparty democracy on the continent. The country has not experienced any serious validated cases of electoral violence. Despite consistently employing the First-Past-the-Post (FPTP) electoral system, which some political commentators have adjudged to contribute to unfair outcomes leading to conflict (Chirambo, 2008; Chirambo & Steyn, 2009), literature suggests this has not been the case in Botswana thus far (Molomo, 2005; 2010). However, the exceptionality of Botswana is challenged in regard to its unremitting dominant party structure which purportedly limits representation. In addition, the FPTP and the persistence of patriarchal structures also constrain the representation of women in political governance in that country. Perhaps even more distinctly, Botswana only recently signed the *SADC Protocol on Gender and Development (2008)* which stipulates 50% representation of women by 2015¹. Because of the fore-going, there have been suggestions for the country to embrace a Mixed Member Proportional (MMP) System which could enhance the goals of gender balance and equality consistent with the SADC Protocol. Furthermore, unequal access to state resources, including communication resources, has emerged as a factor as elections become more competitive (Phirinyane, 2013). Others posit that a dual identity complex also portends danger, as non Tswana ethnic groups are expected to be assimilated into Tswana culture and suppress their own. This supposed hierarchy of tribal administration elevates the eight (8) Tswana Tribal Chiefs to permanent membership in the House of Chiefs supposedly relegating north-easterners to 'sub-chiefs' (Molomo, 2005; 2010). Botswana's population of 2,024,787 comprises Tswana (79%), the Kalanga (11%), the Basarwa (3%), the Kgaladi (3%) and white Africans (1%). Setswana is the dominant language at 79% of the population (ibid). So far, indicative evidence suggests that ethnic diversity has not influenced the character of political competition or voting patterns (ECES, 2014: 25-26). Overall, besides Botswana enjoying an unprecedented 49 years of peace and good governance, there are indications that some level of dialogue and possible reform may be necessary to avoid the increasing political contestation over power and resources degenerating into political or electoral-related violence in the foreseeable future.

1.2 Defining Electoral-Related Violence

While there is a reasonable plethora of literature on electoral-related violence, the concept, as Small (2015) notes is not only poorly defined, it is also inappropriately accounted for in evaluative tools at continental, regional and national levels. Broadly speaking, electoral-related violence is deemed a sub-type of political violence although distinctly associated with the electoral process (UNDP, 2011).

1 <http://allafrica.com/stories/2017020574.html>

It incorporates physical violence, threats and intimidation and can be directed at candidates, voters, officials, national symbols and institutions (ibid). Electoral-related violence can undermine social relations; negatively impact the economy or escalate into genocides, underlining the critical nature of the problem (Utuobi, [sn]). To summarise therefore, this chapter will take cognisance of all inter-related forms of electoral-related violence but will seek to engage with its physical characteristic, which has more direct impacts on electoral processes in the short and long term.

1.2.1 Contextualising Electoral-Related Violence in the SADC Region

It is common cause that the wave of democratisation which characterised southern Africa in the 1990s represents a major milestone in the region's trajectory toward democratic consolidation. Lately however, considerable scholarly attention has been drawn to the propensity for poorly managed procedural processes to retard progress – and cascade into violence and destructive conflicts.

Historically, the experience of multiparty democracy and competitive elections in the region has been varied, with substantial differences in the levels of confidence in the process, often punctuated by deep seated social and political divisions which manifest in the period prior to elections – and regularly in the post-election phase. The AU Panel of the Wise, in its report of 2010, is particularly instructive in recognising that as the historical causes of conflict on the continent appear to decline, multiparty elections have emerged as a major source of violence, jeopardising social order, economic development and regional integration (AU/IPI, 2010: 1-17). It further identifies social and demographic factors, in addition to weak and non-inclusive political institutions as primary causes of electoral-related conflict (ibid). Yet, despite some countries, such as the Democratic Republic of Congo (DRC), Lesotho, Madagascar and Zimbabwe in the recent past, experiencing electoral-related violence to various degrees, the Southern Africa region remains largely more stable and peaceful than the rest of the continent (Small, 2013: SCAD, 2013).

In the endeavour to explore this phenomena, political inquiry has experimented with various frameworks for examining, predicting and analysing violence, usually limiting itself to the high stakes nature of power contestation, the institutional architecture, including electoral system design and the character of electoral management in practice.

On the outset, it appears that appreciating this discussion entails that we recognise the potential linkages between elections, democracy, development, peace and security as the electoral process is evidently influenced by factors residing in these provinces. Although the nexus may not be empirically grounded, at this stage, indicative evidence from studies in these fields have shown, for instance, that *group grievance* can be a trigger for political violence (Fearson & Laitin, 2003, Collier & Hoeffler, 2004). Inferentially, this denotes that social phenomenon such as the *youth bulge* might be construed as a *demographic threat* rather than a *dividend*.

In keeping with this approach, some studies have attempted to explain electoral-related violence based on two factors – *cultural and structural*. In this narrative, the cultural aspect assumes the pre-existence of a political culture of thuggery and intimidation; while the structural factor is underpinned by the notion that society's political and economic institutions are extractive in character, that is, serving the interests of the elite to the exclusion of the vast majority thereby rendering nations highly susceptible to state failure and conflict (Acemoglu & Robinson, 2012: Atuobi, [sn]).

As expected, different approaches tend to yield different, if not contradictory results. For example, although some studies in this area have attributed political violence primarily to the weak and incapacitated nature of the state in Africa, survey-based approaches have, on the other hand, discounted

the significance of these assertions (Kirwin, Mathews & Cho, 2009): Respondents in these studies are averse to using violence as a political option (ibid). This may be because few individuals would wish to be associated with disorderly conduct. The results of Afro-barometer studies in several Sub Saharan African countries further suggest that neither personal nor national economic conditions have significant influences on popular attitudes toward the acceptability of political violence. Interestingly, Kirwin, Mathews & Cho (2009), reveal that the lack of security has significant effects on the acceptability of political violence, implying that citizens who find the state incapable of protecting their welfare, property and lives are more likely to justify the use of political violence to protect their interests. Clark (2007), on the other hand, finds that states that are perceived as legitimate are less vulnerable to military coups or violent manifestations – pointing to the viability of democratically elected government.

Though not directly related to electoral imperatives, research on state fragility provides important pointers to what causes states to fail and implicitly all manner of institutional weakness: (Carmen, Prest & Samy, 2007) posit that improper allocation of resources fuels ethnic, social and ideological competition while poverty, inequality, over population, urbanisation, environmental degradation and rural flight, can cause state collapse and social discord. In this narrative, we could deduce that such frustrations may emerge during elections. There is also a large body of literature from the World Bank focussing on Gross Domestic Product (GDP) – as a gauge for state performance – and therefore a proxy indicator of how the characteristics of the state influence levels of violence. It is asserted that attributes of the state, particularly the extent of democratisation and economic viability affect levels of violence. As a result, linkages have been drawn between features of the state and manifestation of violence, without necessarily identifying the specific aspects of the state that are responsible for generating those violent behaviours (Kirwin, Mathews & Cho, 2009).

Interestingly, even in countries in the SADC region where elections have been relatively well managed, there is a sense that multiparty contestation is a precursor for violence. The Afro-barometer reinforces this analyses in its Round 6 Survey conducted in 2014/2015. A selection of eight SADC countries [Botswana, Lesotho, Madagascar, Malawi, Mauritius, Namibia, Zimbabwe and Zambia], illustrates a relatively higher percentage of respondents indicating their belief that political competition leads to violence. While it is expected that negative perceptions would be high in countries that have a recent history of electoral-related violence such as Zimbabwe (42.3 %) and Madagascar (35%), it is also notable that those with a history of relatively stable electoral environments, while showing a lower score, have a strikingly fair proportion of citizens who attribute political violence to multiparty competition. In Botswana and Zambia, 13% and 27% of citizens respectively, hold that view (Afrobarometer, 2014/2015).

While no single theory appears to exhaustively account for the root causes of electoral-related violence, there is evidence from the several studies sampled here, that the foundations of political violence (and implicitly its sub-type, electoral-related violence) are manifold and may have historical, structural and cultural imperatives. Further, the underlying causes exist at various levels, including informal patronage systems, the distribution of wealth, rights, privilege and power elicited by exclusionary politics. Ethno-religious tensions, socio-economic exclusion and inequality might also be catalysts. In addition, poor governance, elite capture of strategic state institutions, weak systems of diversity management; and frail bonds between citizens and the party political system may accentuate these factors. These imperatives render the nature of institutional design at both regional and national levels extremely critical.

1.2.2 Methodological Considerations

Given the nature of the problem, much of the information was garnered through *participant observation*

and *historical analysis*. While participant observation is associated with description and explanation and less with measurement and quantification (Wimmer & Dominick, 2000:111), historical analysis is a creature of quantitative and qualitative studies (Mouton and Marais, 1996: 44). Participant observation has three distinct components: document review, interviews and observation – methods relevant to reaching often inaccessible political elites and experts (Hansen, Cottle, Negrine & Newbold, 1998: 35-44). The concept of *Triangulation* was employed to bring the qualitative and quantitative data to bear on variables of interest. Extensive literature reviews and the analysis of statistical data from the Social Conflict in Africa Data base (SCAD) and the Afro-barometer were also undertaken. In this sense, the study utilised a measure of ‘mixed methods’.

- **Literature Review**

The literature review focussed on the examination and analysis of Treaty standards and non-Treaty standards at the level of the UN, AU and SADC. The *African Charter on Democracy, Elections and Governance* (2007); the *Protocol and Mechanisms for Conflict Prevention, Management and Resolution* (1993), SIPO I and SIPO II; the SADC Treaty, the Protocol on Politics, Defence and Security Cooperation, the Protocol on Gender and Development; the revised *SADC Principles and Guidelines Governing Democratic Elections* (2015); and recommendations of the SADC Parliamentary Forum, the Electoral Commission of SADC Countries (ECF-SADC) are some of the key instruments analysed.

- **Direct Observation**

Direct observation of electoral processes in the region, workshops on the practical application and revision of regional frameworks, and public discussions on electoral-related violence further informed the construction of this chapter.

- **Statistical Analysis**

Finally, statistical analysis of datum from the Social Conflict in Africa Data base (SCAD) and the Afro-barometer was undertaken in order to map trends in public perception that could assist to explain an apparent distrust of political institutions that permeates the region – which could further expose some of the root causes of electoral-related violence. SCAD is a worldwide research operation that maps all forms of conflict, including protests, riots and other manifestations of physical violence. Analyses of these data assisted in determining how the region compares to the rest of the continent in terms of violent elections. Further, this researcher analysed Afro-barometer data, using the AB Online Analyser, and attempted to build explanations thematically, by correlating the qualitative analyses with the quantitative aspects of this chapter using the concept of triangulation. Afro-barometer, the survey based institution which measures the political and economic environment in more than 30 countries in Africa, covers most SADC countries with the exception of DRC and the Seychelles. Its approach is to conduct face-to-face interviews with a randomly selected sample ranging from 1,200 to 2,400 individuals in each country, working with country partners. It has a long history of testing popular perceptions of state and markets and has established itself as the premier barometer instrument on the continent. In this regard, a large volume of the data was drawn from the Afro-barometer round 6 of the survey (2014/15); but trends were analysed by examining time series data from the previous studies stretching back to 1999/2001. The researcher attempts to ‘pattern match’ to see whether trends in the data may strengthen our understanding of the problem.

Section II – Making Sense of the Frequency, Geographical Spread of Electoral-Related Violence and Popular Perceptions of Root Causes

From the discussion in Section One, it is evident that the root causes and drivers of political and electoral-related violence are multi-faceted and may vary from one cultural context to the next. In keeping with the objectives of the PEV SADC project hence, this section seeks to glean a deeper fact-

based understanding of the problem by examining public attitude toward democratic processes and institutions. It is useful to remind ourselves here of Clark (2007)'s study, which establishes a correlation between legitimacy of the state and the occurrence of relatively lower levels of violence. The report of the Panel of the Wise is also emphatic in identifying institutional weakness, illegitimacy and exclusion as some of the underlying causes of electoral-related conflict (AU, 2010). Other scholars blame donor imposed values, principles and institutions which, they argue did not allow for preparatory and supportive initiatives to capacitate the citizenry and opposition political parties, thereby inadvertently sustaining a constrained political culture. In essence therefore, while elections continue to feature on a regular basis, it is argued that there is no substantive democracy on much of the continent (Small, 2015: 9).

2.1 Mapping Electoral-Related Conflict: How SADC Compares to the Rest of Africa

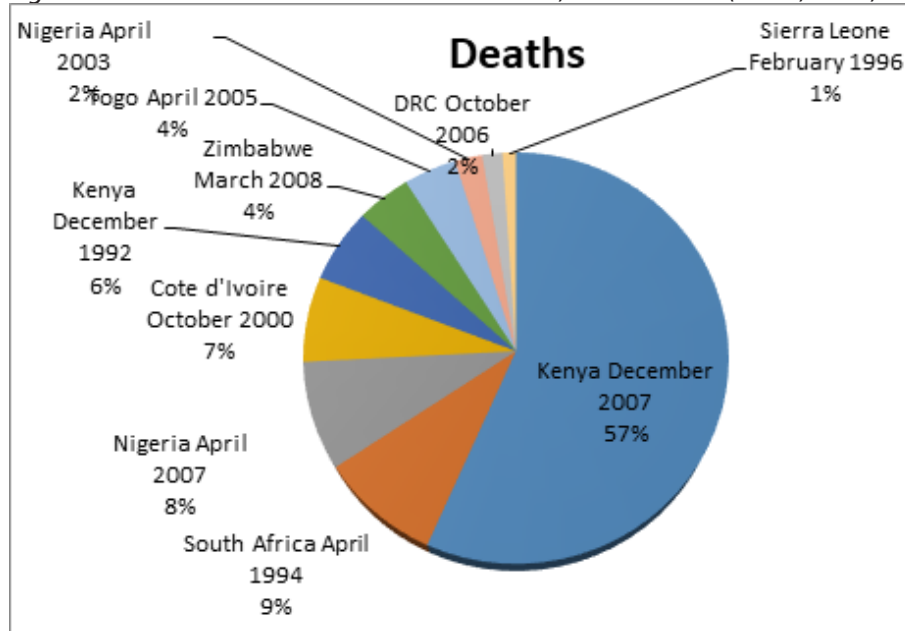
There is a fairly comprehensive plethora of literature on the escalation of electoral-related conflict emanating from disputed elections in Africa stretching back to the early 1990s, when the continent began to experience the 'third wave' of democratisation [Sisk & Reynolds, 1998; Mansfield and Snyder, 2007; small, 2015]. It is noteworthy that although researchers in the field tend to track violent occurrences through the electoral cycle, the extent of the coverage varies. Some adopt a 120-day electoral cycle approach or within range of that (Lindberg, 2006) while others take a 36-month observational approach (Small, 2015: 8). Perhaps one of the most exhaustive data bases is the Social Conflict in Africa Data base (SCAD) which, as stated earlier, is part of a global research mechanism that tracks all forms of conflict across the world. It covers a 36-month period accounting for the pre-election, election and post-election phases, and encapsulates forms of conflict which, purportedly, other researchers do not normally track, such as strikes, riots, protests, inter-community conflict, state-sponsored violence against civilians in Africa, Mexico, Central America and the Caribbean (SCAD, 2015).

According to SCAD, there were 685 incidences of conflict on the African continent between 1990 and 2011 resulting from elections. Further, Bokoe (2012) asserts that violence characterised 60% of elections held in Africa in the year 2011 alone. The nature and levels of violence are varied (Lindberg, 2006) but 'serious' cases have been rare, constituting only 10% of all elections held in sub Saharan Africa in the 1990 and 2008 period (Strauss & Taylor, 2012: Small, 2015). Strauss and Taylor (2012) find that 42% of the elections between 1990 and 2008 experienced no violence; while there were 38% cases of 'violent harassment'; 20% of 'limited violence' and 10% of 'repressive violence'. These studies also show that the early 1990s when African countries were experiencing transitions to multiparty democracies were the most violent, particularly in 1992/1993; and later in the 2000 and 2005 periods. The reasons for this, as stated earlier, are multiple.

What is perhaps striking about the SCAD data base is the absence of SADC countries (except for three) on the list of the '*Top ten most violent elections*' held between 1990 and 2010 (SCAD, 2013:4). Only South Africa in 1994 [239 deaths]; Democratic Republic of Congo (DRC) [42 deaths] in 2006; and Zimbabwe [114 deaths] in 2008; are part of the '*Top ten most violent² elections, 1990-2010*' [SCAD, 2013] [See Figure 1].

2 'Violent elections' signifying those acts physical of violence perpetrated during elections that result in fatalities.

Figure 1: The ten most violent elections in Africa, 1990 to 2010 (SCAD, 2013)



Source: SCAD, 2013; Small, 2015; constructed by author.

Figure 1 above, shows that Kenya with 1502 deaths in the December 2007 elections was by far the most violent election.

SCAD also reveals that the increase in electoral violence from 7% (as a proportion of all conflict) in the 1990s, to 10.1% by the turn of the century (2000), may be explained by the frequency of elections as the number of countries on the continent that embraced multiparty elections rose. There has of course been spontaneous violence occurring in the United Republic of Tanzania (URT) in 1995, 2000 and 2010. Zanzibar has had a continuous record of violence to varying degrees, owing largely to historical ethno-religious and political tensions between the Islamic Opposition Civic United Front (CUF) and the ruling CHAMA CHA MAPINDUZI (CCM). Lesotho has had its intermittent reversals but has not experienced wide spread electoral violence. Electoral violence in South Africa is a relatively remote phenomena going back to the pre-democracy polls of 1994 [Chirambo, [Sn]]; Botswana has no verifiable, significant incidences of note. The explanation of why Southern Africa is less susceptible to violent elections may reside in the nature of transitions from colonial rule to one party States and subsequently to democracy. For instance, while West Africa and parts of North Africa and the Horn have experienced military dictatorships which inculcated a culture of violence and thuggery, southern Africa, serve for Lesotho, has had virtually no significant exposure to these regimes. The characteristic feature of the southern African region rather, has been a preponderance of dominant party structures largely owing to the continuance of plural majority systems or enduring allegiances to liberation or nationalist parties. There is still tension as to whether these transitions on the whole approximate formal or substantive democracy (Danieal, Southall & Szeftel, 1999, Oseghae, 2004). On the whole, it is apparent from data and research in this field that there are some common factors that are regarded root causes of previous, current or future conflicts and they can be aggregated as follows:

- That countries with a history of civil war or civil discord will exhibit the highest levels of electoral conflict;
- That there is a wide range of causes of electoral-related violence, including: high youth

unemployment, land disputes, ethno-religious tensions; nepotism; cronyism; patronage; partisan politics; competition over access to resources and horizontal inequality (Small, 2015; AU/IPI. 2015; PSC, 2015).

The Report of the Panel of the Wise [AU/IPI, 2010] and the proceedings of the AU Peace and Security Council (PSC, 2015), apart from acknowledging social and demographic antecedents of electoral-related violence, place in sharper relief institutional weakness; attempts at unconstitutionally extending presidential term limits; politicisation of state and security institutions; unequal access to state resources by political parties; inequality; social exclusion and lack of autonomy of the Electoral Management Bodies (EMBs) as additional root causes.

As much discussion seems to revolve around the structural aspects, including the inclusiveness (or lack thereof) of political institutions, it is perhaps useful to begin to unmask popular perceptions of these strategic institutions in order to determine the policy interventions required. It is this researcher's view that public opinion surveys can help both national and regional early warning systems to record the levels of confidence in democratic institutions and make timely remedial actions.

2.2 Popular Perception of the Institutions of Elections

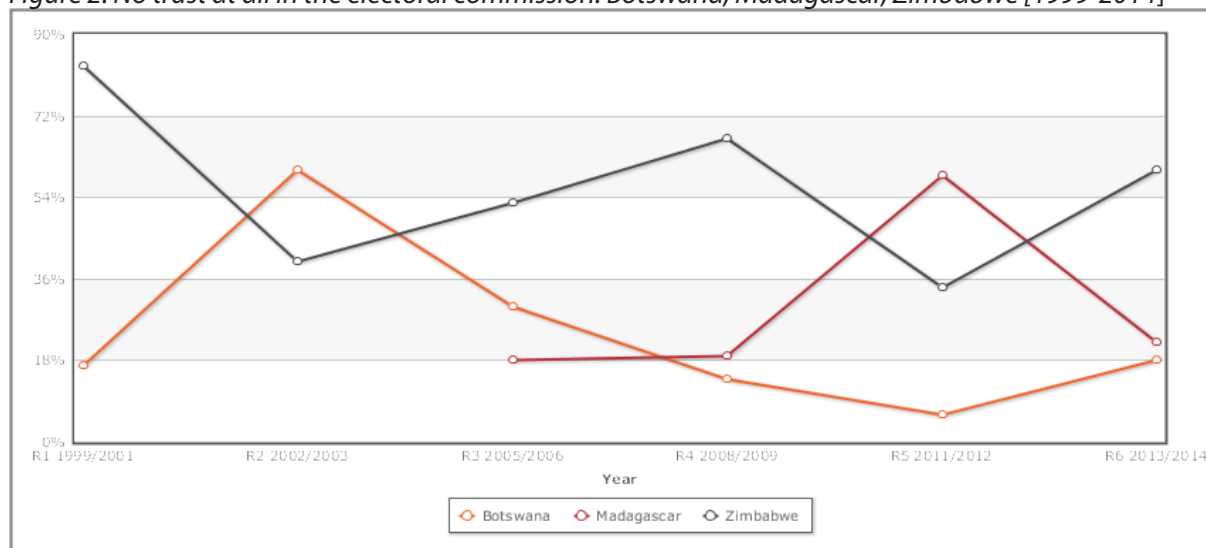
Within the broader discourse of building stable and sustainable democracy in Africa, considerable emphasis is placed upon the structure, independence, financial autonomy, integrity, security of tenure, impartiality and professionalism of the Electoral Management Bodies (EMBs), evident in the continental and regional electoral frameworks (AU/IPI, 2010; AU, 2007; SADC, 2015; Chirambo, 2008). This is because the EMB is responsible for managing the entire electoral process, including the judicious application of the electoral law, the codes of conduct, civic and voter education, voting, tabulation and results announcements. International/regional standards of elections are fairly uniform in promoting the establishment of EMBs of a high integrity as usually, these may trigger conflict if there is the slightest hint of bias or fraud in the process. Therefore, a favourable level of public confidence in the EMB needs to be engendered to avoid unwarranted reactions. To this end, the AU, in its *OAU/AU Declaration on the Principles Governing Democratic Elections in Africa* enjoins its member states to 'establish impartial, all inclusive, competent and accountable national electoral bodies staffed by qualified personnel as well as competent legal entities including effective constitutional courts to arbitrate in the event of disputes arising from the conduct of elections' [OAU, 2002; Art III (c)]. Article 17 of the *African Charter on Democracy, Elections and Governance* [ACDEG], also underlines this. Lastly, the *revised SADC Principles and Guidelines Governing Democratic Elections* in Sub sections 2.1.4 and 4.1.9 respectively are also emphatic in this respect [SADC, 2015].

2.2.1 Popular Perception of Electoral Commissions

Interestingly, in response to a question on the extent to which they *trust* their EMBs, respondents across 12 SADC countries indicate that they barely have confidence in their electoral management bodies, with a total of 58.4% either trusting 'a lot' or 'somewhat'. Twenty percent (20 %) trust their EMBs 'a little' while 15.6 % 'not at all'. The country specific results are varied: In Botswana, a mere 39.4 % trust the Independent Electoral Commission (IEC) 'a lot' while 28.6% express some caution by trusting it 'somewhat'. It is interesting to note that 15% do not trust it 'at all' while 20.3% have 'just a little' trust. Madagascar, on the other hand, shows a relatively higher proportion of disaffected citizens in regard to the integrity of the EMB with those expressing no confidence at all standing at 18.4% and 'just a little' at 27 %. Similarly, in Zimbabwe, only 21% have 'a lot' of faith in the EMB, 24.4% 'somewhat' while

45.6% either have no trust at all or have '*just a little*'. If we combine those with '*lots*' of trust in the Zimbabwe Electoral Commission (ZEC) with those who '*somewhat*' trust it, we have 45.6 % of the public expressing some level of confidence. The case of Zimbabwe is interesting as the country had a new electoral architecture including a bi-partisan model of the EMB instituted through the intervention of SADC via the Global Political Agreement (GPA), which ushered in a new constitution. As will be illustrated further in Section three of this chapter, stakeholders during the electoral process of 2013 indicated to AU and SADC observers that the levels of confidence in the commission had improved following the GPA inspired reconstruction of the EMB [AU LTO Report, 2013]. Analysis of time series data in figure 1 may illuminate this imperative further.

Figure 2: No trust at all in the electoral commission: Botswana, Madagascar, Zimbabwe [1999-2014]



Source: Afrobarometer, 2014; constructed by author.

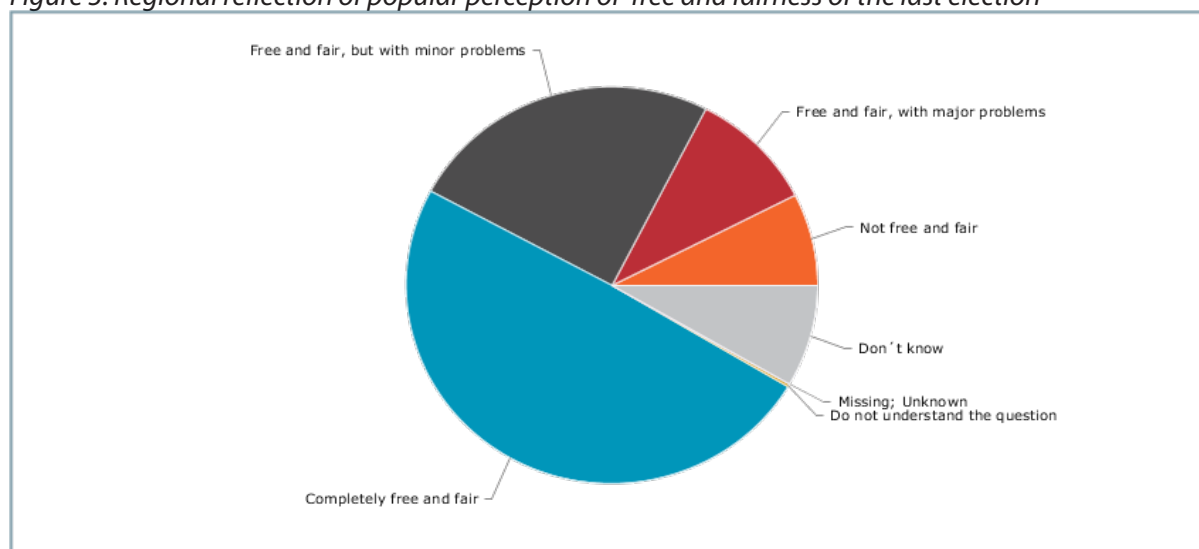
When the question on *trust*, is reversed to inquire on the extent of *distrust* over a 12-year period, the results are equally instructive: In Botswana, the *level of distrust* in the IEC declined from a high of 60% in 2002/3 and 30% in 2005/2006 to 6% in 2011/2012 before rising again to 18% the post-election period. The highest level of distrust was expressed in the 2002/2003 period when the country was going through some serious introspection about dominant party politics, the emergence of splinter groups from the BDP; and a leadership transition [see Molomo, 2005; Alexander & Kaboyakgosi, 2012]. In Madagascar, as recent as 2011/2012, 59% of respondents felt they did not trust the EMB '*at all*'. The figure declined by half in the 2013/2014 period to 22%, probably because of the negotiated transition by the SADC. Zimbabwe offers an interesting case, as it moved from having three structures dealing with elections, the Electoral Supervisory Commission, the Registrar General's Office which presides over voter registers, and the Electoral Commission; to the establishment of ZEC in the aftermath of the 2008 polls. At the height of the constitutional debate in 1999/2001, which resulted in the rejection of the state's draft constitution, confidence in the institution of elections was extremely low: Up to 83% of the respondents conceded to having '*no trust at all*' in the three-tier electoral management structure. The levels of distrust remained above 50 % except in 2002/2003 [40%] and in 2011/2012 (34%) when there was a marked decline, presumably because of the regional intervention which resulted in the formation of the bi-partisan ZEC. Subsequent to the disputed outcomes of 2013, and the seemingly unexpected landslide by ZANU PF, the lack of confidence in ZEC rose once again to 60%.

2.2.2 Popular Perception of 'Free and Fair Elections'

As discussed earlier, it is a generally held view that the integrity of the EMB contributes significantly to the level of confidence in the results or the conduct of the electoral process. Without the benefit of a positive perception of EMB impartiality, even well managed processes could be unfairly adjudged to be flawed in the eyes of the public. The perception of the EMB and its behaviour is closely tethered to the assessment of the overall process. Hence, the use of the notion of 'free and fair' is now common place in international election observation. However, it remains an elusive concept meaning different things to different people. SADC, for its part, has perhaps moved closer to embracing a level of measurability in its revised electoral framework: In addition to defining the notion of 'free³ and fair⁴'; SADC has also added 'transparent' and 'credible' as a complementary way of assessing electoral processes. For the purposes of this exercise, however, we shall restrict ourselves to the 'free and fair' mode as this is what Afro-barometer respondents have been tested on.

In round 6 of Afro-barometer respondents in 13 SADC Countries were asked to assess the degree of free and fairness of their last elections. The global picture suggests fairly impressive results in regard to the levels of trust in electoral processes and their conduct. Half of the respondents reflected in the pie chart below felt their elections were completely free and fair. Of course, this picture is bolstered by countries with a consistent record of delivery of credible electoral processes.

Figure 3: Regional reflection of popular perception of 'free and fairness of the last election'



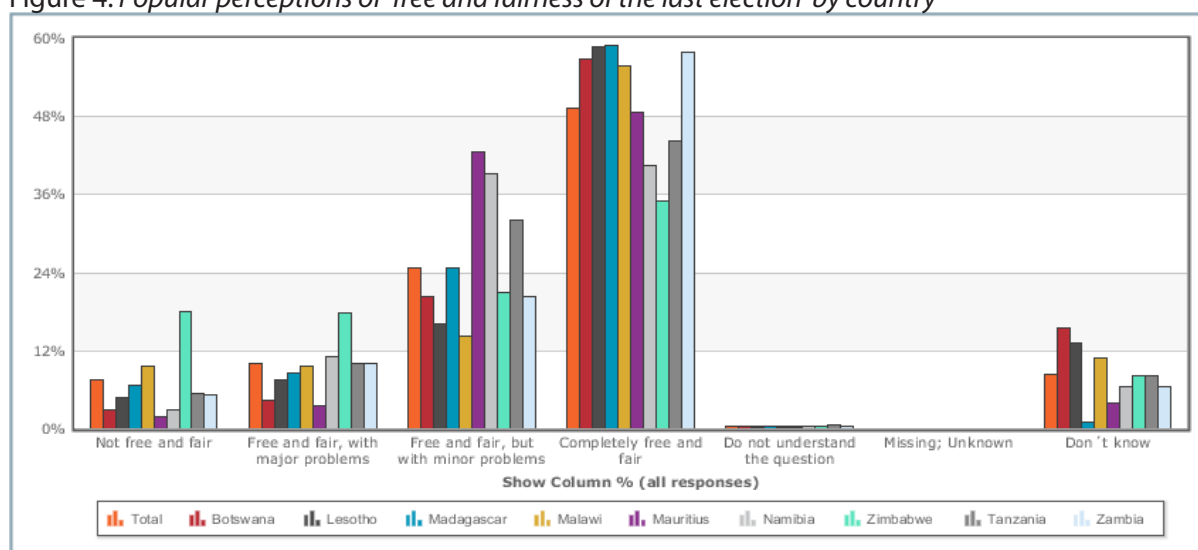
Source: Afro-barometer, 2014; constructed by author.

3 According to the revised SADC Principles and Guidelines Governing Democratic Elections (2015), 'Free elections' are those where :- 'Fundamental human rights and freedoms are adhered to during electoral processes, including freedom of speech and expression of the electoral stakeholders; and freedom of assembly and association; and that freedom of access to information and right to transmit and receive political messages by citizens is upheld; that the principles of equal and universal adult suffrage are observed, in addition to the voter's right to exercise their franchise in secret and register their complaints without undue restrictions or repercussions.'

4 'Fair elections' on the other hand, are defined as: 'electoral processes that are conducted in conformity with established rules and regulations, managed by an impartial, non-partisan professional and competent Electoral Management Body (EMB); in an atmosphere characterised by respect for the rule of law; guaranteed rights of protection for citizens through the electoral law and the constitution and reasonable opportunities for voters to transmit and receive voter information; defined by equitable access to financial and material resources for all political parties and independent candidates in accordance with the national laws; and where there is no violence, intimidation or discrimination based on race, gender, ethnicity, religious or other considerations specified in these SADC Principles and Guidelines Governing Democratic Elections'

The landscape changes considerably when we disaggregate the country results: in Figure 4, we see that more than half of the citizens polled believe the last elections were '*completely free and fair*': In Botswana (56%), Lesotho (58.7%), and Madagascar (58.9%) Malawi (55.8%) and Zambia (57%). Only 35% of Zimbabweans on the other hand thought the July 31, 2013 Harmonised elections were '*completely free and fair*'. Regionally, the proportion of citizens who believed their last election was '*free and fair with major problems*' is below the 30% mark (Afro-barometer, 2014). Interestingly, this survey was conducted at a time when conflict prone countries such as Lesotho had just experienced reasonably acceptable electoral outcomes which led to the unprecedented Tripartite Coalition in 2012. Madagascar was going through an uncertain phase but with renewed promise of a return to the regional community after its suspension by SADC in 2009. This might illuminate the relatively positive impressions despite the doubtful political outlook.

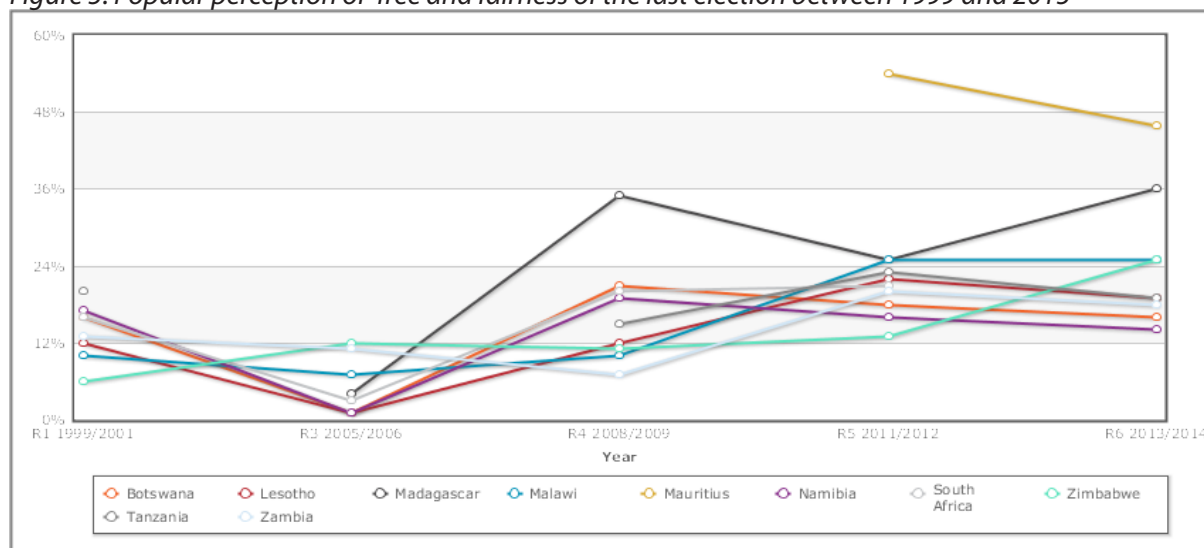
Figure 4: Popular perceptions of 'free and fairness of the last election' by country



Source: Afro-barometer, 2014; constructed by author.

The analysis of time series data gives us a trend, which is instructive. In relative terms, Zimbabweans have viewed the elections in their country as *not being completely free and fair* since 1999, going into the 2011/2012 period. From 2012, there is marked rise in the proportion of those who believed their processes were '*completely free and fair*', at 35% in 2013/2014. Of course the dip is substantially explainable by the well documented incidences of electoral violence and political conflict during this period.

Figure 5: Popular perception of 'free and fairness of the last election between 1999 and 2015'



Source: Afro-barometer, 2014/2015; constructed by author.

We recall that SCAD (2013) recorded up to 114 fatalities in Zimbabwe's 2008 electoral process. However, following the SADC Extraordinary Summit held at Dar-es-Salaam in March 2007, we witnessed a political mediation process and inter-party dialogue between ZANU-PF and MDC which led to amendments to the constitution and to the electoral, security and media laws of Zimbabwe⁵. Non state actors criticised these 'piece meal changes' maintaining that they were rushed through parliament without public consultations [ZLFHR, 2010: 3]. Wide publicity of these events and reactions would likely have shaped a cautious approach to 'trusting' electoral institutions and processes in a country that had seen little of that for a decade. On the other hand, the absence of electoral-related violence, by and large, in the 2013 polls and the unprecedented extended presence of AU Long Term Electoral Observers (LTOs) covering the electoral cycle and the more than 600 SADC observers deployed two weeks before the polls who could have contributed to improved public trust in the process [see AU LTO Report, 2013]. Further afield, citizens of Mauritius, another of Africa's longest continuous democracies, have the highest levels of confidence in the freeness and fairness of their elections. In general, we see modest improvements in perceptions of the process across all countries. Botswana retains a high profile with 73% adjudging the polls to have been 'completely free and fair' in 2008/2009. This declined to 64% in 2011/2012 and slid further down to 54% in 2013/14. As observed earlier, this may be accounted for by the increasing voices questioning the constitution, dominant party politics, access to media and resources; and the issues of lack of inclusivity of minority ethnic groups and women in decision making mechanisms in the recent past (see Alexander & Kaboyakgosi, 2012).

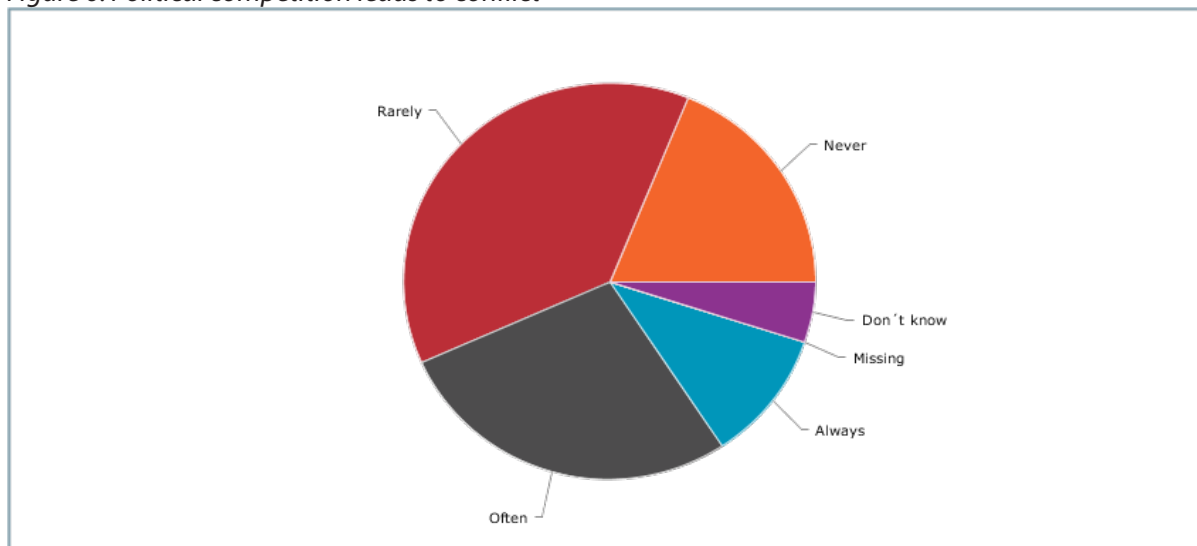
2.2.3 Political Competition and Conflict

Although support for democracy in the SADC region has been consistently high since 1999, with 67.9% of respondents expressing dominant positive views, against a mere 9.0% who wish to experiment with other modes of government [Afro-barometer, 2014], citizens of Botswana, Lesotho, Madagascar,

5 These included the Constitution of Zimbabwe Amendment No. 18, the Electoral Act [chapter 2:3] and the Zimbabwe Electoral Commission Act [Chapter 2: 13]; the Zimbabwe Access to Information and Protection of Privacy Act [Chapter 10:27] [AIPPA]; the Broadcasting Services Act [Chapter 12: 06] and the Public Order and Security Act [Chapter 11: 17].

Mauritius, Malawi, South Africa, Tanzania, Zambia and Zimbabwe are still inclined to attribute political conflict to the ferocity of multiparty competition. This might be a result of the experience of how political parties react to losing elections or the occasional campaign violence in the pre and post-election phases. The global imperative suggests that while the proportion of respondents who believe political competition 'rarely' leads to conflict is higher (37%); the proportion of SADC citizens who blame political contestants for political violence is also significant at 27.6%.

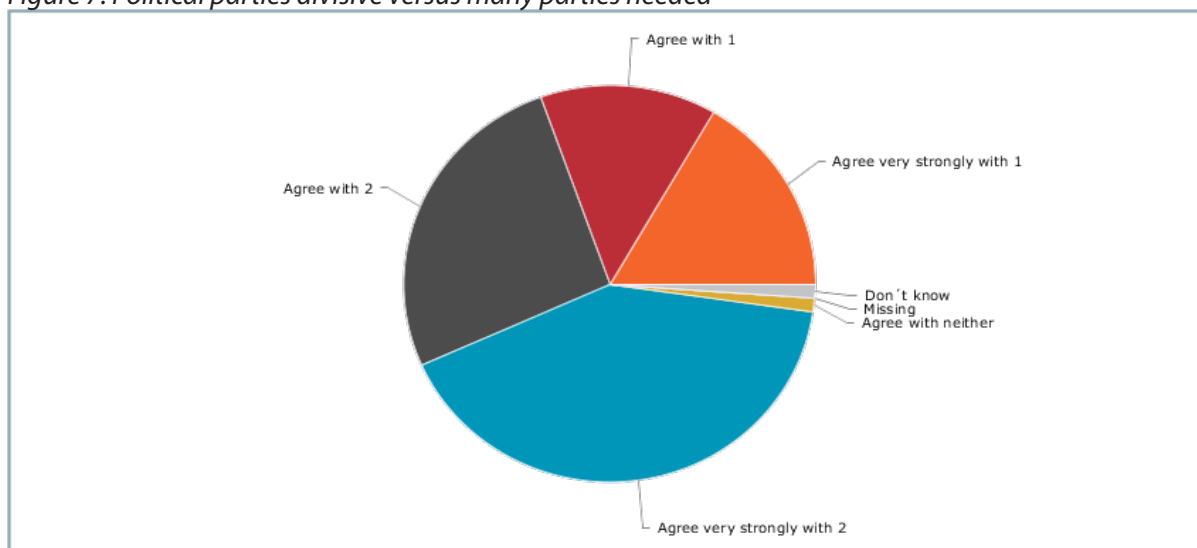
Figure 6: Political competition leads to conflict



Source: Afro-barometer, 2014/2015; Constructed by author.

However, viewing multiparty competition as a trigger for political/electoral conflict does not necessarily mean that the public has no faith in party politics. In Figure 7 below, we glean this from the majority of respondents: they were asked to rate the statement that *political parties were divisive versus the need for more political parties*. A total of 30.8 % either *agree very strongly* or simply *agree* with **Statement One** ('political parties create division and confusion; it is therefore unnecessary to have many political parties'), while 67.3% either 'agree very strongly' or simply 'agree' with **Statement Two** [Many political parties needed to make sure that [citizens] have real choices on who governs them].

Figure 7: Political parties divisive versus many parties needed



Source: Afrobarometer, 2014/2015; Constructed by author.

Disaggregated along country lines, we find that in Lesotho a total of 41.5% (33 + 8.5%) respondents either *agree very strongly* or *agree* with **Statement One**. Hardly surprising, given the country's history of failed party coalitions and conflict. In contrast, in Botswana, a significantly lower proportion of 14.9% *agree very strongly* with **Statement One** and a mere 13.3% *agree* with it. In Zimbabwe, the proportion is lower than one would expect at 16.6% (*agree very strongly*) and 11.9% (*agree*), possibly due to the experience of relative political and economic stability during the time the survey was conducted (2014/2015). Overall, there is greater belief in the notion that more parties would be beneficial to democracy: In response to **Statement Two**, therefore, we find Botswana scoring the highest of the four countries that we have highlighted in the discussion (Botswana, Lesotho, Madagascar and Zimbabwe). 41.2% of Botswana *very strongly agree* that a multiplicity of political parties will aid the democratic project; supported by 29% who *agree* [The total of those who either *strongly agree* or simply *agree*, is therefore 70.3%]. Zimbabwe fares well at a combined 68.6% for those who *very strongly agree* or simply *agree* with **Statement Two**. Similar trends reflect in Madagascar and Lesotho, underlining that despite the perception of conflict in politics occasioned by political parties, citizens generally feel the remedy still resides in a liberalised political environment.

2.2.4 Popular Perception of Courts of Law

Electoral disputes, as indicated throughout this discussion, will often be arbitrated through various legal mechanisms. The AU and SADC both recommend the establishment of electoral courts to ensure expeditious disposal and resolution of disputes. This was exemplified by the 25 October, 2015 elections in Tanzania where Electoral Observation Missions (EOMs) from the AU, SADC and the Commonwealth were unanimous in imploring the country to establish post-election adjudication mechanisms to avoid persistent disputes over elections and violence⁶. Elections in Zanzibar were controversially annulled by the ZEC citing irregularities, extending a legacy of disputed polls and electoral conflict on the islands further. Without recourse in law, Tanzania is highly exposed to potential electoral-related violence. In most other countries, either an Electoral Court operating on a time-bound schedule or the High

⁶ As observed by the Author.

courts will normally adjudicate these disputes. The length of these processes and the extent to which fraudulent outcomes may be reversed by the courts might influence public trust in the judicial system.

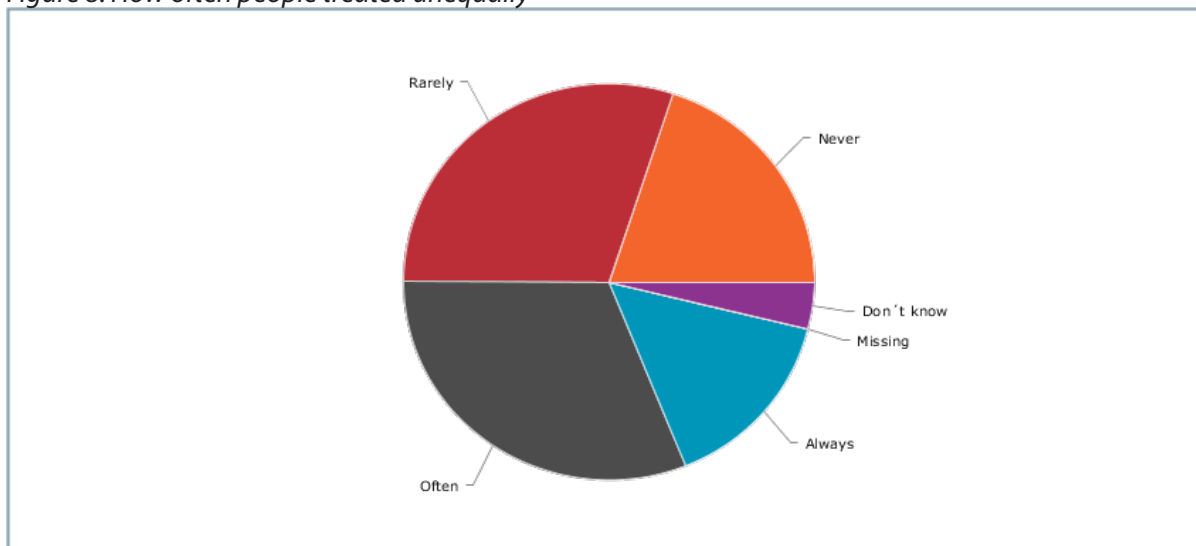
Afro-barometer, in this regard, asks: *How much do you trust the Courts?* 51.0% of Malawians trust their courts 'a lot'. Lesotho is second at 48.5%; Botswana at 41.2%; Mauritius, 27.4%, Namibia, 37.4 % and Zimbabwe, 27.2%. The reasons for these rather measured responses may require a much more in-depth analysis but for the purposes of this discussion, we could certainly deduce that there is probably much work needed to build confidence in the justice system, particularly in an electoral context, as decisions made by institutions distrusted by the citizenry, can in and of themselves, be triggers of conflict.

2.2.5 Inequality and Exclusion

Inequality of opportunity to access the basic necessities of human development such as employment, health, housing and the requisite capabilities such as civil and political rights and economic, social and cultural rights, may seemingly add to *group grievance, identity politics and political fragmentation* along ethnic lines. In this regard, Southern Africa's leading economies, Botswana and South Africa, are also its most unequal societies (see Clover, 2003; Moyo, [sn]) The extent to which frustrations from the socio economic realm may manifest in the theatre of elections is a debate that has permeated the continent for some time now. In the wake of the Arab spring - the unravelling of authoritarian regimes in North Africa - political and business elites, and activists in southern Africa rigorously interrogated the wider implications for countries in the region with similar demographics and social realities. South Africa, with official unemployment at 25% - 33 % (IDRC, 2012); and youth unemployment [using the expanded definition] of 63.1%,⁷ has expressed much concern in this regard. However, this profile is shared by many other countries in the region and the political ramifications are yet to be fully appreciated. Framed against this scenario, the results of the Afro-barometer survey on inequality may exacerbate those fears. While inequality is a broad concept which denotes everything from uneven distribution of rights and privileges; to unequal access to resources and participation in decision making processes, the Afro-Barometer survey confines itself to the legal/justice imperative and asks the question: *In your opinion, how often, in this country, are people treated unequally under the law?*

⁷ www.biznews.com/thought-leaders/2015/07/29/sa-q2-unemployment-eases-to25-but-63-1-of-youth-remain-jobless/

Figure 8: How often people treated unequally



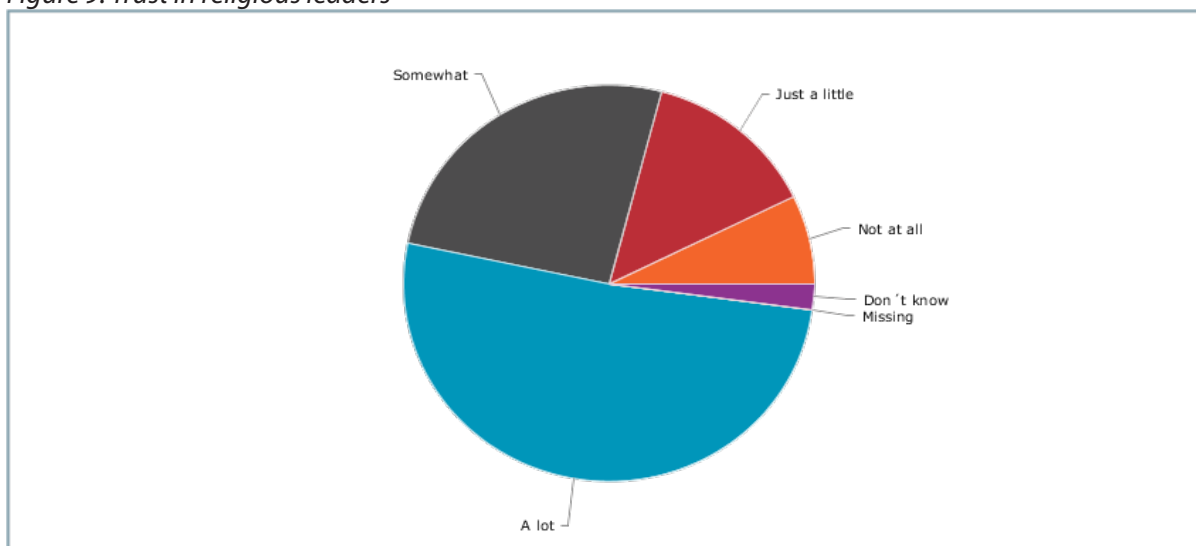
Source: Afrobarometer, 2014/2015; constructed by author.

Results in Figure 8 show that a majority of SADC citizens feel 'often' unequally treated before the law (31.2%); A further 15.1% assert that they are 'always' treated unfairly, while 30% 'rarely' feel so. Only 19.9% 'never' feel unequally treated. This result may denote the elitist characteristic of the justice system/ courts we referred to earlier.

2.2.6 Popular Perception of Religious Leaders

While attitudes toward government officials are suspicion-ridden, the perception of religious leaders is extremely positive across the SADC region. In total, 51% of SADC citizens trust their religious leaders 'a lot'. A further 25.9% 'somewhat' trust them. Individually we see 10 SADC countries expressing this dominant view ranging from 41.9% (Botswana) to a peak of 72.2% in Lesotho.

Figure 9: Trust in religious leaders



Source: Afrobarometer, 2014/2015; constructed by author.

The case of Lesotho is particularly instructive: As we shall elaborate in section three of this chapter, religious leaders have played a pivotal role in conflict resolution in Lesotho in the past six years. After the withdrawal of the SADC mediator, Sir Ketumile Masire in 2009 from the mediation process, it was the Heads of Churches and the Christian Council of Lesotho (CCL)⁸ that marshalled their moral authority to negotiate a consensus amongst Lesotho's feuding political parties. Supported by the Lesotho Council of NGOs and the UNDP, these interventions also informed the work of the SADC Organ on Politics, Defence and Security Cooperation (OPDSC). The emergence of a Tripartite Coalition after the 2012 elections was credited to the work of the Churches and its leaders, rather than to the regional body or the political parties themselves. This, without doubt, explains the extremely positive perceptions of religious stewardship in the Mountain Kingdom. Zanzibar has also benefitted from the mediation of the inter-faith religious groups since 2000 which are credited with the relatively calmer electoral environment in the present day.⁹ Similarly, in countries such as Zambia, where the Catholic Church and the Zambia Council of Churches (ZCC) have been in the vanguard of mobilising civic action against undemocratic practices since the transition to multiparty democracy in 1991, we find that more than half the respondents (53.9%) hold these dominant views. We can draw analogous conclusions from the case of Malawi as well, where 63 % of the citizenry also trusts religious leader 'a lot'.

2.2.7 Summary

The value of public opinion on democratic institutions and leadership is that it does provide a basis for strategic regional and national institutions to develop their indicators for early warning systems and to inform their conflict prevention and electoral observation interventions in the long term. Invariably, it also assists in identifying the antecedents to electoral-related violence and hence inform the development of legal and policy frameworks that could effectively address it.

Section III – How Regional Norms and Standards Interact with National Electoral Regime to Address Electoral-Related Violence

In order to illustrate this, this section of the chapter focuses on the interaction between *the regional* and *the national electoral regime*. It will discuss specific country cases where regional Treaties and ancillary instruments have been deployed to varying degrees of success or failure. Against this background, the case of Botswana will be examined in regard to how it absorbs regional influences and possibly provides critical lessons for SADC, if any.

3.1 Contextualising International/Regional Norms and Standards of Elections

As alluded in section I, it is important to appreciate two critical points in regard to what constitutes 'international or regional' norms and standards of elections:

- Firstly, there is no *single* comprehensive instrument, universally agreed by all states that stand as the 'grand norm' for electoral practice (Norris, 2012).
- Secondly, even where a group of nation-states subscribe to a particular set of standards, it is not uncommon for each society to design certain rules and regulations that specifically respond to

⁸ The CCL says it represents 90% of Christian population and is composed of the Anglican Church, Catholic Church, the Presbyterian Church, Methodists Church and African Methodist Church.

⁹ As observed by the author during the 2015 national elections in Zanzibar.

unique national contexts, therefore appearing to be at odds with the so-called international or regional norms and standards. It is possible, but certainly not unusual therefore, for some electoral rules and regulations to differ despite states belonging to similar cultural contexts (ibid).

However, while it is certain that there is no such thing as ‘universal standards’ of electoral practice per se, it is noteworthy that there can be a set of ‘agreed norms and standards’ of elections which originate from UN Treaty law and related jurisprudence. These provisions of universal human rights instruments, regional treaties and political commitments, often assumed to carry sufficient “political and moral force” to nudge state parties to comply with acceptable electoral practices (EC, 2007: 1). The instruments have evolved over more than half a century, shaping our appreciation of human rights and privileges as they relate to political participation generally and to electoral conduct and involvement more specifically.

At a global level, the *Universal Declaration of Human Rights (UDHR) (1948)* and the *International Covenant on Civil and Political Rights (ICCPR) (1966)* are considered the formative instruments. The former is deemed to have the force of international customary law¹⁰, while the latter, signed and ratified by as many as 167 state parties, carries political and legal force (EC, 2007: 1; Norris, 2012: 4-5). The ICCPR was one of two covenants – both constituting a set of binding human rights norms - developed in 1966 to operationalize the UN Charter and UDHR. The other was the *Convention on Economic, Social and Cultural Rights*. The ICCPR assumed force in 1976, legally committing the member states that ratified the treaty (Melander & Alfredsson, 1997: 27-61). Significantly, the ICCPR also carries ‘moral force’ in UN member states that have not ratified it, such as Saudi Arabia, Myanmar, United Arab Emirates and Singapore (Norris, 2012: 4-5). The ICCPR reinforces the UDHR by re-affirming the principles of *equal suffrage, universal suffrage, periodic elections, genuine elections, free expression of the will of the people, right to hold public office and secret ballot* (Melander&Alfredson, 1997).

Over time, the development of the *International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)(UN, 1965)*, the *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)(UN, 1979)* and the *Declaration on the Rights of Persons Belonging to National or Ethnic, Linguistic and Religious Minorities (UN, 1992)* (Melander&Alfredson, 1997: 233 - 313¹¹), addressed the lacunas in the UDHR and ICCPR, encapsulating notions of *exclusion, racism and inequality* – some of the antecedents that are seen to fuel conflict and possibly provide a catalyst for electoral-related violence.

10 International Customary Law, according to the Wex Legal Dictionary refers to international obligations arising from formal written international treaties. According to Article 38 (1) (b) of the ICJ Statute, Customary international law is one of the sources of international law. www.law.cornell.edu.

11 **Convention:** Binding agreement between states; used synonymously with [Treaty](#) and [Covenant](#). Conventions are stronger than [Declarations](#) because they are legally binding for governments that have signed them. When the [UN General Assembly](#) adopts a convention, it creates international norms and standards. Once a convention is adopted by the UN General Assembly, [Member States](#) can then [Ratify](#) the convention, promising to uphold it. Governments that violate the standards set forth in a convention can then be censured by the UN.

Covenant: Binding agreement between states; used synonymously with [Convention](#) and [Treaty](#). The major international human rights covenants, both passed in 1966, are the [International Covenant on Civil and Political Rights \(ICCPR\)](#) and the [International Covenant on Economic, Social and Cultural Rights \(ICESCR\)](#).

Declaration: Document stating agreed upon standards but which is not legally binding. UN conferences, like the 1993 UN Conference on Human Rights in Vienna and the 1995 World Conference for Women in Beijing, usually produce two sets of declarations: one written by government representatives and one by [Nongovernmental Organizations \(NGOs\)](#). The [UN General Assembly](#) often issues influential but legally [Nonbinding](#) declarations.

Charter: A grant made by the sovereign either to the whole people or to a portion of them, securing to them the enjoyment of certain rights. Of the former kind is the late charter of France, which extended to the whole country; the charters which were granted to the different American colonies by the British government were charters of the latter species.

A charter differs from a CONSTITUTION in that the former is granted by the sovereign, while the latter is established by the people themselves: both are the fundamental law of the land

In essence therefore, the mutually reinforcing nature of these conventions and declarations has provided conceptual clarity to electoral frameworks advanced by the UN, the African Union (AU), Organisation of American States (OAS), the Council of Europe (CoE), the Organisation for Security and Co-operation in Europe (OSCE), the Commonwealth of Independent States (CIS). They have also provided a sound basis for developing tenets for democratic practice and for democratic elections, taking into account human rights, universal suffrage, civil and political rights, and socio-economic and cultural rights, group rights, and principles of non-discrimination, gender balance and equality of opportunity, non-violence as they relate to popular participation. These sets of 'agreed' principles, in addition, augment our mutual understanding of how violations of electoral processes manifest and how scientifically valid measurements may be conceived¹² (Elklit & Reynolds, 2005: 148; Norris, 2012:3).

Given that, by and large, countries on the African continent are members of the UN and have signed or ratified most of the key covenants (Heyns & Killander, 2013), our discourse on electoral practice in southern Africa has to appreciate that the normative frameworks developed by the AU and its Regional Economic Communities (RECs), are an endeavour to model global treaties and declarations to suit geographical contexts (Matlosa, 2006: 7). Therefore, it is imperative to emphasise that what we loosely term as 'international or universal standards', exist at global and continental level (e.g. UN & AU); as well as sub regional levels (e.g. SADC). Within this gamut of international instruments, one can disaggregate those norms and standards that constitute 'moral and political force' from the ones that are seen to possess 'legal force'. The five sub types are identifiable as follows:

- **Treaty standards;** are international or regional Treaties such as The United Nations Charter (1945); The Constitutive Act of the African Union (2000); the SADC Treaty (1992); the SADC Protocol¹³ on Politics, Defence and Security Cooperation (2001) and the SADC Protocol on Gender and Development (2008), which are legally binding under international law for state parties that agree to be bound by them. Others are the ICCPR (1966); the ICERD (1979), the African Charter on Human and People's Rights (1995) and the African Charter on Democracy, Elections and Governance (2007) (see EC, 2007: 26).
- **Non-Treaty standards:** are regarded as 'soft law' instruments, declarations of policy or intention; joint statements and commitments by *inter-governmental organisations*. They are employed as explanatory tools that inform emerging trends in international law; and when they are adopted by a majority vote, may enhance the formation of customary international law. They include Declarations adopted within the UN (excluding declarations at the Security Council, which have legal force); the

12 The ACDEG establishes mechanisms for the implementation of the instrument in Chapter 10, including providing for a framework for cooperation with RECs, coordination, implementation and evaluation of performance. The Charter assures the independence of electoral monitoring and observation Missions of the AU, by categorically stating that the exercise shall be conducted by 'appropriate and competent' experts, selected from Electoral Management Bodies (EMBs), Pan African Parliament (PAP), national legislatures, eminent persons and other sectors of society. In this regard, the prerogative for selecting experts lies with the African Union Commission (AUC) and not with Member States. To this end, the AU's African Peace and Security Architecture (APSA) are linked to the SADC regime through three cooperation Memoranda of Understanding (MOU). The MOUs cover the provision of financial resources for capacity building to bolster regional capability to support conflict prevention, resolution and management. As one of the RECs, SADC constitutes one of the 'building blocs' of the AU and hence contributes to the continental peace and security agenda via liaison offices at the AU, which are, in turn, tethered to the UN system. Similarly, the political and governance aspects of SADC held at the Organ subscribe to the African Governance Architecture (AGA), which is the overriding political and institutional framework for the promotion of good governance in Africa through the enhancement of synergies between the various AU organs and institutions. AGA monitors the implementation of the ACDEG and other normative frameworks relating to democracy and good governance to gauge compliance.

13 According to the UN, a Protocol based on a framework Treaty is an instrument subsidiary to a treaty, and drawn up by the same parties. It has substantive obligations that implement the general objectives of a previous framework or umbrella convention [UN, 2015].

UDHR (1948) and the *OAU/AU Declaration on the Principles Governing Democratic Elections* (AHG/Dec.1 (XXXVIII) (2002) (ibid). Arguably, the *SADC Principles and Guidelines Governing Democratic Elections* (2004 & 2015), will belong to this category, unless domesticated¹⁴ or transformed into a Protocol to render them a Treaty Standard. International law scholars adjudge the non-treaty standards to signify a ‘*strong moral and political commitment*’ to the protection of human rights enshrined in the UDHR ((EC, 2007: 26-27).

- The rest of the categories could be collapsed into **Political Commitments, recommendations or general comments**; which can take the form of inter-state dialogue and pledges; and expressions of intentions. While they may constitute an understanding between countries about conduct, they do not carry the threat of sanctions if there is non-compliance. Recommendations such as those made by the UN Human Rights Committee – may enhance the interpretation of specific provisions of international treaties or promote the implementation of such instruments or evaluate compliance to existing treaties (ibid). In a southern African context, it can be deduced that the *Norms and Standards for Elections in the SADC region* (2001) advanced by the SADC Parliamentary Forum; and the *Principles for Electoral Management, Monitoring and Observation* (PEMMO), promoted by the Electoral Commission of SADC Countries (ECF-SADC) are at best, *recommendations* that have, undoubtedly, informed the evolution of non-Treaty standards within the SADC region. For neither SADC PF nor the ECF-SADC are inter-governmental bodies or formal structures of SADC, despite having played an important role in promoting a culture of electoral observation by regional formations since the late 1990s.

3.1.1 Scope and Limitations of International/Regional Norms and Standards for Elections

In Africa, guidance on state commitments to democratic elections and implicitly to non-violent electoral processes is to be found primarily in the 2000 *Constitutive Act of the African Union* (AU) which commits member states to democratic governance [Article 3 (g)]. Commitments to the promotion of peace and security are encapsulated in the *Memorandum of Understanding on Security, Stability, Development, and Cooperation* (2002) (AU/IPI, 2010: 8-10). The *African Charter on Democracy, Elections and Governance* (ACDEG) of 2007 goes much further and attempts to rationalize the nexus between democracy, governance, elections, development and human security in a more expansive fashion, albeit emphasizing the importance of developing sustainable, peaceful, and prosperous democratic states. More distinctly, authority on electoral-related matters is derived from three principal documents: the *OAU/AU Declaration Governing Democratic Elections in Africa* (2002) and the *Guidelines for African Union Electoral Observation and Monitoring Missions* (2002). A complementary tool is the *AU Long Term Observation Framework of 2013*, which enables the continental body to monitor and observe the entire electoral cycle. Beyond the ACDEG, African states may also voluntarily open themselves up to evaluations on governance through *New Partnership for Africa's Development* (NEPAD)'s *African Peer Review Mechanism* (APRM) (Small, 2015).

14 See <http://www.wunrn.com> [http://www.paclii.org/oldpits/English/domestication.html]: Domestication includes passage of national and local legislation that conforms to international treaties. The OHCHR is instructive in emphasising that ratification is a different process from domestication. Unless a treaty between states is incorporated in domestic laws, the rights and obligations contained there-in are inapplicable and unenforceable domestically. However, it is posited that by virtue of ratifying international human rights treaties, governments undertake to institute domestic measures and legislation consistent or compatible with their treaty obligations and duties. Regional mechanisms would in this sense assist countries that fail to meet their obligations to reform their laws to ensure that international human rights standards are respected, implemented and enforced at all levels.

Not until the *African Charter on Democracy, Elections and Governance* (2007) re-affirmed state parties' commitments to holding regular, transparent, free and fair elections in line with the AU/OAU Declaration, did the continent appear to have a Treaty standard that made it obligatory for state-parties to comply with upholding the tenets of democratic elections. It also categorically prohibits, rejects and condemns unconstitutional change of government [ACDEG, Art 2 (4). In addition, whilst, its forerunner, the OAU, embraced a policy of non-interference, the AU, through the ACDEG, threatens sanctions against any non-compliant state party, particularly where undemocratic means are used to depose a democratically elected government AU, 2007: 12). However, while the AU apparently recognizes that these wide range of Treaties, protocols and principles have cemented and standardised democratic practice and patterns to a large extent, it also admits that the measures have not been sufficient to fore-cast or respond to electoral-related violence, drawing, inter alia, from the lessons of Kenya and Zimbabwe in 2008 (AU/IPI, 2010:2-7). The Report of the AU Panel of the Wise (2010) is instructive in this regard as it recommends a strategic linkage between electoral observation, electoral assistance and conflict prevention. Data from the APRM, electoral observation, the AU Situation Room, academic and policy research and media reports should form the basis for information on potential electoral hotspots, the report notes. The Panel emphasises that to comprehensively understand the antecedents causing electoral-related conflict, the AU must take a long term electoral observation approach (ibid).

3.1.2 Influence of Regional Norms and Standards on Electoral-Related Violence in the SADC Region

In similar vein, to understand where SADC draws its authority to intervene in cases of electoral violence or conflict, we turn to Article 33 (a) of the SADC Treaty which stipulates that a Member state may face sanctions if it '*persistently fails, without good reason, to fulfil obligations assumed under the Treaty*'. Article 33 (b) further states that a country may face penalties if it: '*...implements policies which undermine the principles and objectives of SADC...*'

In addition, under the *Protocol on Politics, Defence and Security Cooperation*, SADC can intervene in various conflict situations where regional security or the legitimate authority of a member state is threatened. It may also intercede when there is '*...large-scale violence between sections of the population or between the state and sections of the population, including genocide, ethnic cleansing and gross violation of human rights*' [SADC, Art. 11-2].

It is noteworthy, that the *SADC Principles and Guidelines Governing Democratic Elections* flow from the SADC Treaty and the Protocol on Politics, Defence and Security Cooperation, two instruments bearing legal force which commit Member states to the promotion of common democratic values and institutions. Its objectives clearly state that it is designed to ensure adherence by member states to the commitments they made under the SADC Treaty and the Protocol on Politics, Defence and Security regarding safeguarding democracy and promoting democratic consolidation and human rights. The observation of elections in this regard is the first step in engendering in a series of inter-related peace building processes. Violations of the revised *SADC Principles and Guidelines Governing Democratic Elections* will hence be reported to the SADC Summit for action under the SADC Treaty [as we saw with the case of Madagascar in 2009 and 2014]. In fact, the interaction between regional norms and standards with national situations is perhaps best demonstrated by the experience of Zimbabwe between 2000 and 2013.

3.1.3 Zimbabwe – the Global Political Agreement (GPA) and the New Constitutional Dispensation

Ever since a proposed draft constitution floated by the state was rejected in a referendum in February 2000, and following the emergence of the MDC to challenge the ZANU-PF, a wave of politically motivated violence engulfed the country, beginning with the occupation of white owned farms by war veterans (Zimbabwe Lawyers for Human Rights, 2010; Eaglestone & Chitsike, 2013).

The SADC intervened and appointed former South African President Thabo Mbeki as Facilitator. The SADC intervention led to electoral reforms which in essence, saw to the domestication of the *SADC Principles and Guidelines Governing Democratic Elections* (2004) in the Zimbabwean legal and constitutional framework. An unprecedented episode of violence engulfed the country toward the presidential run-off of 2008, resulting in the withdrawal of opposition candidate Morgan Tsvangirai from the presidential race. Robert Mugabe was sworn in on 27 June 2008 after a single candidate election. The SADC Electoral Observation Mission (SEOM) reported that the process leading up to the presidential elections did not conform to the *SADC Principles and Guidelines Governing Democratic Elections* (Eaglestone & Chitsike, 2013: 5). One of the key points of contention was the existence and application of the Access to Information and Protection of Privacy Act (AIPPA) and the amended Public Order and Security Act (POSA), which the opposition, civil society, media and other stakeholders deemed to constrain freedom of expression and association. With Zimbabwe facing complete isolation from the west, and a total collapse of its economy; mass unemployment and poverty; the SADC brokered a Global Political Agreement (GPA)¹⁵ which ushered in an Inclusive Government – effectively, the ZANU-PF and the two MDC factions sharing state power (Ibid). In this regard, the inter-face between regional and national situations extends beyond mere 'interaction':

- Firstly, SADC deferred to the SADC Treaty- and the protocol on Politics, Defence and Security, to resolve disputes and neutralise threats to state and regional security. In the context of this discussion, the threats emanated from the electoral process. While the *SADC Principles and Guidelines Governing Democratic Elections* do not carry legal remit per se, the remedy to electoral disputes resides in the Treaty – recourse to action is guided by the Protocol establishing the Organ. There-in resides the nexus between the Treaty and non-Treaty standards in the region. One of the significant outcomes in the case of Zimbabwe was how the regional normative framework for elections was integrated into national law as part of the broader conflict resolution project.
- Secondly, as violence escalated in the 2008 electoral period and beyond, the regional body invested in sustained efforts at ensuring a sustainable solution - the GPA, which was agreed to by the contesting parties (and was under-written by the AU). The GPA, among other things, was crafted to ensure that Zimbabwean society was not only economically and politically stable, but that it was also *free of violence, fear, intimidation and corruption* and that its institutions were founded on the principles of justice, fairness, openness, transparency, dignity and equality (GPA, Art. 2; 2008).
- Thirdly, the GPA engendered a consensus toward a complete over-haul of the national legal, constitutional and electoral architecture, leading up to the promulgation of a new constitution in

¹⁵ An Extraordinarily SADC Summit was held at Dar-es-Salaam on 29 March 2007, followed by a second meeting at Lusaka on 12th April, 2008 where ZANU-PF, MDC-T and MDC –M' submitted themselves to the mandate of SADC and agree and co-sponsored the enactment of the Constitution of Zimbabwe Amendment No: 18 Act; Amendments to the Electoral Act, the Zimbabwe Electoral Commission Act, the Public Order and Security Act, the Access to Information and Protection of Privacy Act; and the Broadcasting Act. The sweeping amendments were endorsed at Lusaka and the AU Summit held at Sharm El Sheik, Egypt on 30 June, 2008.

2013 and the holding, subsequently, of the harmonised elections the same year. The GPA committed Zimbabwe to adopting a new constitution to replace the 1980 Lancaster House Constitution through a referendum in 2013, with expanded fundamental freedoms and outlined the principles of a more inclusive electoral system, including the regular holding of *peaceful*, free and fair elections conducted by secret ballot, based on universal adult suffrage and equality of votes and *free from violence*. Further, the Zimbabwe Electoral Commission (ZEC) was structured along bi-partisan lines, with positions publicly contested for by nominees of the political parties and the public. In addition, a time-bound Electoral Court to resolve disputes, within a 45-day period was instituted [AU LTO Report, 2013).

3.1.4 Madagascar – Electoral Violations and Suspension from SADC

In the case of Madagascar, following a fact-finding mission to the crisis prone eastern African nation, the SADC Extraordinary Summit of 30 March of 2009, suspended the country from membership of the bloc due to the unconstitutional change of government, where the military pressurized Marc Ravalomanana to vacate his presidency in favour of Andry Rajoelina. On 15 June 2013, at its Extra Ordinary Summit of the SADC Heads of State, the regional body threatened not to recognize any election results in Madagascar that involved candidates who had violated the constitution and the electoral law of Madagascar. Diplomatic pressure from the regional body resulted in the restoration of constitutional order in that country leading to Madagascar's reinstatement by the SADC Summit in 2014. The Summit, SADC's highest decision making body, commended its member states for '*standing firm on SADC Principles against those who usurp power through violence...*' (SADC Communiqué, 2014).

3.1.5 Lesotho – Militarisation Post-Election Violence and Role of Faith Based Groups

In some instances, regional interventions in violent electoral and post-election processes could be described as reactive. The case of Lesotho seems to suggest so. Apart from the political crises that engulfed the mountain Kingdom and the several unsuccessful attempts by SADC to restore stability, Lesotho is a prime example of where religious/faith based groups, with the requisite capacity, may play key roles as mediators in electoral-related violence and thereby supporting regional efforts. Since independence from Britain in 1966, this Constitutional Monarchy has been marred by military coups, post-election violence and conflict, single party dominance and unstable coalitions. The problems have ranged from lack of consensus on institutional design, political party fragmentation, to pure contestation over resources and power (EISA, 2012). The Heads of Churches and the Christian Council of Lesotho (CCL) ¹⁶as well as other civil society organisations played a pivotal role in engendering peaceful resolution. As before, the SADC organ, apart from facilitating fresh elections in 2015 modelled along its *Principles and Guidelines*, also appointed Deputy President of South Africa Cyril Ramaphosa as Facilitator; and established and deployed an Over-Sight Committee to manage the peace and security situation in the Mountain Kingdom.

3.1.6 Botswana – Lessons and Contestable Terrain

In sharp contrast, Botswana has an admirable record of holding democratic elections since 1966 every five years – and presidential alternation has occurred three times, albeit with the same party in power

¹⁶ The CCL says it represents 90% of Christian population and is composed of the Anglican Church, Catholic Church, the Presbyterian Church, Methodists Church and African Methodist Church.

– the Botswana Democratic Party (BDP). Justifiably, the world Bank's governance indicators assign high ratings for 'rule of law', 'control of corruption', 'government effectiveness', 'regulatory quality', 'political stability' and 'voice and accountability' to the country (Moathlhaping & Molesane, 2013). Similarly, the Mo Ibrahim Foundation's Governance Index continues to underline the country as one of the top three performers in respect of good governance (ibid). Botswana was also the first country in SADC to ratify the Protocol against corruption in 2001 (Van Klaveren et al, 2009). An independent Electoral Commission (IEC) established in 1997 under section 65 A of the constitution of Botswana over sees the electoral process (ECES, 2014: 25). The seven members are appointed by the Public Service Commission and chaired by a High Court Judge, with a legal practitioner as Deputy. Five additional members may be appointed from the short list. The Judicial Service Commission appoints a Delimitation Commission at intervals of not less than five years but not exceeding 10 years. Legal voting age is 18. As indicated in section I of this report, Botswana's population has a population of 2,024,787 comprising Tswana (79%), the Kalanga (11%), the Basarwa (3%), the Kgaladi (3%) and white Africans (1%). Setswana is the dominant language at 79% of the population (ibid). Indicative evidence suggests that ethnic diversity has not influenced the character of political competition or voting patterns (ECES, 2014: 25-26). Neither has there been ethnic based or general electoral violence. Further, despite that the country's human rights record is above board, the absence of institutionalized infrastructure in the form of a Human Rights Commission, seems to concern some within society. Perhaps the three most significant concerns are:

- **The low representation of women in parliament/governance structures:** In 2010, there were 4 women in a parliament of 57 members. These phenomena are attributed to enduring patriarchal structures and resource differentials between men and women. In addition, Botswana only signed the *SADC Protocol on Gender and Development of 2008* in April 2017; it has however, not yet acceded to the *African Charter on Democracy, Elections and Governance (2007)*, which also promotes equality of opportunity between men and women. It is noteworthy that the *revised SADC Principles and Guidelines* are anchored upon gender balance, drawing specifically from Articles 11 and 12 of the *SADC Protocol on Gender and Development*, as a means of assessing performance on gender equity and equality in the electoral process. [SADC, 2015: Sect. 11].
- **Diversity management:** Conflict over identity, language and ethnic exclusion may also be a potential problem for Botswana, according to some analysts. They challenge the notion that ethnic homogeneity has been the hallmark of Botswana's stability. Sections 77, 78 and 79 of the constitution were amended following disaffection by non Tswana tribes demanding equality of opportunity in access to land and use of language. The Basarwa in particular went as far as the United Nations Commission on Culture, in addition to instituting legal action against the state, regarding their residence in the Central Kalahari Game Reserve. The recognition of 8 Tswana Chiefs as principal representatives in the House Chiefs and the minority ethnic leaders classified as 'sub chiefs', was also a major source of tension. Furthermore, since 2011, labour unrest undermined the previously peaceful and cordial relations between workers and the state (Alexander & Kaboyakgosi, 2012). Lastly, Botswana appears not to have resolved the matter of equal or equitable access to state owned media. A polarised media environment, where state media is seen to be biased toward the ruling party and private media inclined to opposition or non-state actors, is emerging (ECES, 2014; Alexander & Kaboyakgosi, 2012).
- **Legal and constitutional reform:** Tensions also exist regarding institutional transformation more broadly. A survey by Vision Council showed that 72% of the citizens seek constitutional reform (Vision Council, 2010) – including a review of presidential immunity, the discontinuance of specially

elected Members of Parliament and councillors and particularly a change from the current FPTP electoral system to MMP (Alexander & Kaboyakgosi, 2012; ECES, 2014; Molomo, 2005). Others still, have emphasised the country's lack of focus on socio-economic and cultural rights while elevating civil and political rights – and have called for a constitutional review (ibid). These, and any strains on social spending, may constitute grounds for future contestation and possibly potential flashpoints for Botswana if not resolved. Regardless, it needs to be stated categorically, that Botswana remains probably the only country in SADC that openly criticises undemocratic practices by its peers and has even questioned the validity of SEOMs assessment of elections in the past.

3.2 Potential Impact of the Revised (2015) SADC Principles and Guidelines Governing Democratic Elections on Electoral-Related Violence

SEOM performance has been a subject of criticism in some respects by the broader pool of stakeholders as well largely because the general citizenry in the region does not appear to understand whether the evaluative instrument used in SADC elections, has legal or political force or not. As such, the character of the *SADC Principles and Guidelines Governing Democratic Elections of 2004* has been questioned at many levels. Critics noted that under Section 3.1 member states were not obliged to invite SEOMs to observe their elections. Furthermore, the governments were solely in charge of determining the composition of the SEOMs (Mutasa, 2005). The instrument's silence of sanctions when member states violated the Principles aggravated these negative perceptions.

The adoption of the *revised Principles and Guidelines Governing Democratic Elections (2015)*, will perhaps, in some ways, address some of the lacuna identified in the 2004 document. Firstly, the revised instrument allows for pre-election assessments and 'Goodwill Missions' by SEAC, a body which may not need accreditation or invitation to assess prevailing pre-election conditions. Secondly, SADC has formally adopted the *Long Term Electoral Observation Methodology* which will enable SEOMs to observe all segments of the electoral cycle [SADC, 2015: sect. 7] utilising expertise from both state and non-state actors. Additionally, the document attempts to bring clarity to the roles of the Organ, the MCO, the SEAC and the SEOM in relation to the mutually reinforcing activities in the electoral processes and conflict prevention, defining lines of authority and accountability. The revised instrument also encourages its members to develop inclusive political institutions and impartial and independent EMBs. Essentially, as with the AU, we see an attempt by SADC to link election observation with early warning systems. Perhaps even more importantly, violations are to be dealt with in terms of the SADC Treaty.

Section IV – Key Factors for Preventing Electoral-Related and Strengthening Early Warning Mechanisms

4.1 Building Inclusive Political and Economic Institutions

The discussion thus far, illuminates the potential nexus between social and demographic factors and electoral-related violence. Grievances from the socio-economic realm are often expressed in the theatre of politics and particularly in elections. In countries with a history of conflict, the distrust of electoral institutions is significant as illustrated by public opinion surveys in this project. The remedies seem to reside in developing more inclusive political and economic institutions in the long term – as they two are indivisible. From an electoral perspective, we need to take note of the design of the electoral model, whether it leads to diversity in parliament and other governance structures. Bi-partisan or professional models of EMBs are also usually recommended in polarised environments.

4.1.1 Understanding Political Party Dynamics

From the popular perception of SADC citizens, we learn that while there is relatively firm support for the liberalisation of political space and the proliferation political parties, people consider them drivers of political violence (Afrobarometer, 2014). Here, it is important for regional and national conflict prevention and early warning mechanisms to constantly evaluate diversity issues and representation at party political level: Are political parties broad-based? Are they inclusive of minorities, youth, and women? What motivates political parties to be formed along partisan, ethnic or religious lines? Is the electoral system able to influence the formation of policy orientated political parties?

4.1.2 Socio Economic and Demographic Factors

Without undertaking a political economy analysis (PEA), it is less likely that early warning systems will benefit from the knowledge of historical, structural and cultural imperatives as they relate to the electoral process. In this regard, it is important to analyse the social and power relations over access to resources and distribution of rights and privileges. Horizontal and vertical inequalities are triggers for discord and can easily derail democratic processes. These form the foundation of disaffection with government and may impact the electoral process in multi-faceted ways.

Section V – Conclusion and Recommendations

The recommendations, going forward, are as follows:

5.1 Awareness of regional norms and standards and how they work:

In order to render international/regional norms and standards of elections more useful, it is important for non-state actors to collaborate with SADC to sensitise stakeholders in each member state, at all levels, as to the value and relevance of Treaty and non-Treaty standards; and modes of redress that exist under these instruments. These will likely assist on preventing extra judicial actions as the regional platform, in as far it works, may be deemed the final forum of arbitration. A lack of knowledge of the existence and efficacy Treaty and on Treaty standards can only negate the general good of preventing electoral-related violence. The *SADC Principles and Guidelines Governing Democratic Elections* may be known by electoral actors and sections of the media, but are hardly familiar to the vast majority of citizens. For PEV SADC, the revised SADC framework provides a basis to motivate and initiate technical support processes aimed at aligning key elements in the instruments that are relevant to the prevention of electoral-related violence into national laws. A broader sensitisation process involving media and civil society could be crafted in tandem with this technical exercise.

5.2 Identify platforms for peer learning and collaboration with regional bodies:

To ensure informed strategies therefore, it is critical to engage the relevant regional mechanisms and stakeholders for the mutual purpose of promoting peace. Regional mechanisms where knowledge sharing in this regard may occur already exist. The SEAC is well placed to engage with this range of work and utilise data from the PEV SADC Observatory to frame its advisories to the MCO of SADC. The Electoral Commissions Forum of SADC Countries (ECF-SADC) is another forum where evidence-based peer learning and lessons-sharing process could be tabled, thereby, engaging EMBs from member states. These are also platforms where evidence-based advocacy can be employed to promote adoption

of critical instruments such as the *SADC Protocol on Gender and Development*, by countries such as Botswana. Usually empirically grounded arguments are better placed to catalyse change.

5.3 Build capacity of religious leadership across the region:

Afro-barometer studies continuously demonstrate that citizens across the region have unwavering faith in the moral authority of the clergy. This picture is even more compelling when one considers the role of faith based groups in Lesotho, Malawi, Zanzibar and Zambia during transitions and post- election periods. It is certain that they could play important roles at any stage of the conflict cycle. Providing them the requisite mediation capacity is therefore a key imperative.

5.4 Synergies between electoral assistance projects and EOMs during elections:

The institutionalisation of Long Term Electoral Observation (LTO) by SADC is a welcome development as it allows for expert assessments of the entire electoral cycle or certainly major segments of the cycle, in order to determine a country's preparedness for democratic elections and assess its capacity to manage post-election conflict. This holistic approach will provide early warning systems much needed empirical data upon which to recommend further action. As such, it is critical for electoral assistance projects to have the political backing to explore ways and means of engaging with the EOMs from the continent and beyond to influence their peace building activities.

5.5 Strengthen post-election adjudication mechanisms and diversity management:

The provisions of the revised *SADC Principles and Guidelines Governing Democratic Elections* emphasise the need for member states to institute Electoral Courts and legally enforceable codes of conduct and diversity management processes. These are critical for preventing post-election disputes of the type that have led to the nullification of results in Zanzibar after the 25 October 2015 elections, for example. ECES through PEV SADC is positioned to provide relevant technical support to EMBs and national governments within the broader framework of conflict management and prevention initiatives. A comparative research project on existing mechanisms and their efficacy would be an important first step.

Angola

Author : Celestino Onesimo Setucula



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Introduction

Angola is the second largest economy in the Southern African Development Community (SADC) after South Africa and is often elected to one of the two executive Troikas that rule this regional organisation. Angola is often cited as an example for peace and national reconciliation. This country is currently the Chairman of the International Conference of the Great Lakes Region (ICGLR). In 2015-16, it was a non-permanent member of the United Nations Security Council. These international diplomatic successes come at a time of ambition and desire for international recognition for Angola.

In 2017, the Central African country will organise its fourth national elections since independence from Portugal in 1975. The country was ravaged by a civil war from 1975 until 2002. Since 2002, two elections took place in, 2008 and 2012, with a new Constitution was adopted in 2010. In 1992, Angola became infamous for a failed and flawed electoral process that signalled the return to civil war instead of putting an end to it. This chapter focuses on electoral-related violence. It will analyse its drivers and assess how Angola deals with this issue. The situation in Angola is about civil war recovery, reconciliation, trust-and peacebuilding and democratisation processes.

The following definition for electoral-related violence was adopted for the research and the writing of this chapter: *“Electoral conflict and violence can be defined as any random or organized act or threat to intimidate, physically harm, blackmail, or abuse a political stakeholder in seeking to determine, delay, or to otherwise influence an electoral process”*¹.

Section I - Context and Drivers of Electoral Violence in Angola

1.1 Of Wars and Elections (1975 – 2002)

Angola gained independence from Portugal on November 11, 1975, under the leadership of President Agostinho Neto from the Movimento Popular de Libertação de Angola (Popular Movement for Liberation of Angola - MPLA). José Eduardo dos Santos assumed the presidency in 1979 following A. Neto's death.

During the colonial era and the fight for independence, three main political movements emerged: the MPLA led by Agostinho Neto and then J. dos Santos, which was linked to communist parties in Portugal and the Eastern Bloc; the Frente Nacional de Libertação de Angola (National Front for the Liberation of Angola - FNLA), led by Holden Roberto, linked to the United States of America and Mobutu's regime in Kinshasa; and the União Nacional para a Independência Total de Angola (National Union for the Total Independence of Angola - UNITA) led by Jonas Savimbi and linked to People's Republic of China and Apartheid South Africa. The war for independence took place for 15 years (1961-1974) and was followed by a civil war that started in 1975. Angolan politics find its roots in conflict which has framed its political interactions until now.

The Alvor Agreements, signed in January 1975, granted independence beginning on November 11, 1975. The Agreements were signed by UNITA, MPLA and FNLA. They agreed to hold the first assembly elections in October 1975. The agreements provided for the election of a Constituent Assembly and the

1 Fischer Jeff, 2002, International Foundation for Electoral Systems, White Paper, “Electoral Conflict and Violence. A Strategy for Study and Prevention”
<http://unpan1.un.org/intradoc/groups/public/documents/untc/unpan019255.pdf>

indirect election of the President of Republic. The three main political parties were also supposed to form a transitional government. However, quarrels and rivalries broke the agreements. Civil war broke out with the involvement of international actors (Cuba, Apartheid South Africa). The MPLA took control of the capital city of Luanda, chasing the united FNLA and UNITA into Huambo province. MPLA declared itself government of the newly independent country while FNLA and UNITA declared a competing government in Huambo.

In August 1975, the Central Committee of the MPLA established a Constitution based on the one-party regime rule. The President of the MPLA became the President of the Angolan Republic. A Revolution Council was set up, composed only of members appointed by MPLA. This Council dealt with the legislative functions, approved the state budget, appointed and exonerated the members of the government including at the central and provincial levels. In 1980, the Revolution Council was replaced by the People's Assembly whose members were elected indirectly from the ruling party.

While there were several episodes of direct confrontations between the different parties to the war, Angola primarily became a front for Cold War proxies with battles involving Cuban and Apartheid South African troops in 1975 and 1988, for example². The MPLA took control of most of the provincial capitals, forcing UNITA and FNLA into the bush to fight a guerrilla war.

The end of the Cold War completely reshaped the region, with changes to international support to the different Angolan movements. Namibia became independent from South Africa. Mobutu's regime in Zaïre was weakened. Apartheid South Africa released Nelson Mandela and started negotiations towards multi-racial elections. Angolan parties to the conflict had to modify their strategies and multiparty-election became a national objective supported by international actors.

In April 1991, MPLA denounced the firm Marxist-Leninist line it had defended since 1977. Officially, it opted for Social-Democracy, opening the door to end the one-party regime. FNLA became marginal in comparison to the other two forces. MPLA and UNITA met in Portugal in May 1991 and signed the Bicesse Accords. The Accords laid the foundations for a transformation from one-party authoritarianism to multiparty democracy, with elections scheduled for September 1992. In the first round of the presidential election, UNITA's leader Jonas Savimbi officially received 40% of the votes and MPLA's candidate José Eduardo dos Santos 49%. The process was far from perfect. UNITA rejected the results, citing fraud and irregularities in the electoral process. However, according to Donald S. Rothchild³: *"the common interests of all sides in cooperating were undercut by the determination of UNITA's leader to play the political-ethnic card and resume the civil war"*. Rothchild recognised in Savimbi *"a spoiler"*, meaning that he failed to *"make a credible commitment to the peace agreement"*. However, the choice of a two-round election with *"a winner-take-all design"* contributed to *"Savimbi's incentive to withdraw from the peace process because it made the stakes for winning exceedingly high"*⁴.

Politically motivated violence between MPLA and UNITA, made it impossible for the second round to take place. Angola plunged again in a civil war that lasted 10 years (1992 – 2002). The 1992 elections have become a case study worldwide for ill-prepared elections that exacerbated conflict instead of

2 South Africa History, "Angolan Civil War 1975-2002 Timeline Events" <http://www.sahistory.org.za/article/angolan-civil-war-1975-2002-timeline-events>

3 Rothchild Donald S., 1997, "Managing Ethnic Conflict in Africa: Pressures and Incentives for Cooperation"

4 Rothchild, *id.*

putting an end to it as presented by Joshua Fischer⁵ or Séverine Autesserre⁶.

In 1992, the main challenges could be described as lack of experience and a knowledge gap. While there was a strong commitment to making sure that electoral administrations act independently, many political parties and stakeholders were largely unprepared and did not possess the necessary experience, knowledge and resources to deliver and guarantee credible elections. There was no common methodology available for designing or financing election administration, nor did electoral institutions and practitioners have access to best practices, practical experience, and comparative lessons.

Between 1992 and 2002, another failed peace accord in 1994 (Lusaka Protocol) was signed by UNITA and MPLA. In 1995, FNLA, UNITA and MPLA agreed on establishing a joint transitional government but in practice the struggle for power never stopped. UN peacekeepers arrived in the country to ensure a peaceful transition. In 1996, Dos Santos of the MPLA and Savimbi from UNITA agreed to form a unity government. Each movement's troops were aimed at merging into a national army. However, Savimbi declined his position in the unity government in April 1997 and did not attend the inauguration ceremony. The following year, full-scale fighting resumes.

Eventually, UNITA and MPLA signed a ceasefire agreement in early 2002 following J. Savimbi's death in February 2002 during a gun fight with government forces. A de-escalation took place accompanied by a demobilisation process. There has been some progress in peaceful cohabitation except for the province of Cabinda where the central government faces a secessionist armed movement the Liberation Front of the Cabinda Enclave (FLEC). The province of Cabinda has no territorial continuity with the rest of Angola as it is separated by the Democratic Republic of Congo. Angola is one of the major African oil producers, and much of the Angolan oil lies in Cabinda⁷.

1.2 After the War Came Peaceful Elections (2002 – Present)

The legacies of the civil war are important and fundamental to the Angolan situation and have been framing electoral-related violence since independence. The socio-economic situation was terrible. In May 2002, the UN estimated that 3.8M Angolans were internally displaced people because of the fighting⁸. Ethnic-based political affiliation, extreme poverty and distrust fuelled were fuelled by political violence.

The Angolan National Assembly is a representative unicameral body and works as a legislative power with 220 seats. The suffrage is universal, equal, direct, secret and periodic. Angola applies the proportional representation system for the election of parliamentarians and they have a five-year term. The national territory is divided into 18 provincial constituencies that elect each five members which is equivalent to 90 seats and a single national constituency electing 130 members of parliament.

It took the country six years (2002-2008) to eventually hold its second multiparty parliamentary elections learning from some of the mistakes from 1992. The MPLA officially won 81% and UNITA 10%⁹ winning 191

5 Fischer Jeff, 2002, International Foundation for Electoral Systems, White Paper, "Electoral Conflict and Violence. A Strategy for Study and Prevention"

<http://unpan1.un.org/intradoc/groups/public/documents/unpan/unpan019255.pdf>

6 Autesserre Séverine, author of "Peaceland", 2014, and "The Trouble With the Congo", 2009 and Three Flawed Ideas are Hurting International Peacebuilding, Opinion Piece Published in the Washington Post, March 15, 2017

7 British Broadcasting Corporation (BBC), Angola Country Profile, <http://www.bbc.com/news/world-africa-13036732>

8 United Nations High Commissioner for Refugees (UNHCR) and Internally Displaced Persons in Angola, A Programme Continuation Review. May 2002: <http://www.unhcr.org/3ce3709d4.pdf>

9 African Elections database, http://africanelections.tripod.com/ao_detail.html#2008_National_Assembly_Election

and 16 seats out of 220, respectively. At the elite level, messages to call for violence were excluded and a relatively few incidents (c. 10) were recorded by the European Union Election Observation Mission¹⁰, which was considered acceptable. Human Rights Watch¹¹ considered the 2008 elections as “free from violence, a first in Angola” even if the “same was not entirely true of the pre-election period”

Presidential elections were planned to be organised in 2009¹² but postponed. In January 2010¹³, a new Constitution was voted for by the MPLA majority in the Assembly. The direct ballot presidential election was replaced by a system where the president is chosen as the leader of the winning parliamentary party. This makes Angola a similar system to Botswana and South Africa. This move however fed distrust and suspicion among the other political actors.

The next elections took place in 2012. MPLA's official score decreased to 71% and UNITA increased up to 18%¹⁴ winning 175 and 32 seats, respectively. Furthermore, The Broad Convergence for the Salvation of Angola – Electoral Coalition (CASA-CE) holds 8 seats, the Social Renewal Party (PRS) holds 3, and the FNLA holds 2.

The situation was quite peaceful, again showing the great improvement from the previous decades regarding electoral-related violence in Angola. “Predictions of unrest and violence in the run-up and after the elections were unfounded”¹⁵. Predictions might have been unfounded, but raising the awareness among political actors not to return to the use of large scale violence after decades of conflicts might have also contributed.

However, there were several criticisms against the Angolan National Election Commission (CNE), since it failed to accredit national and international observers on time. These criticisms were made by opposition parties such as UNITA and CASA-CE: “their main criticisms are that they [sic] failed to accredit party observers to all polling stations and that the voter register was not made public”¹⁶. The accreditation issue prevented Southern African Development Community (SADC) observers to undertake their mission as they should¹⁷: “Regrettably, the SEOM (SADC Electoral Observation Mission) was unable to fully engage with the electoral process for at least two weeks before polling day as required by the above stated Article due to late accreditation. The late accreditation of the SEOM had therefore denied the fulfilment of the requirements for the assessment of the pre- election phase.” Several fraud accusations could not be checked by observers.

There are now five political parties represented in the National Assembly, while the MPLA dominates Angola's party systems. In its 2016 report, Freedom House described the political situation as: “Mutual mistrust, the inability to agree on common strategic, and enticements from the more powerful and better-funded (party) prevent opposition parties from coordinating their efforts”¹⁸. However, the four parliamentary

10 European Union Election Observation Mission, 2008 Angola Report, http://www.eods.eu/library/fr_eueom_angola_08_en.pdf

11 Human Rights Watch, Angola Report, 2009, “Democracy or Monopoly? Angola's Reluctant Return to Elections”, <https://www.hrw.org/report/2009/02/23/democracy-or-monopoly/angolas-reluctant-return-elections#page>

12 Mail & Guardian, December 21, 2006, “Angola Sets Presidential Elections for 2009”, <https://mg.co.za/article/2006-12-21-angola-sets-presidential-elections-for-2009>

13 Reuters, Angola Constitution Factbox, <http://www.reuters.com/article/angola-constitution-idUSLDE60J12B20100121>

14 African Elections database, http://africanelections.tripod.com/ao_detail.html#2008_National_Assembly_Election

15 Weimer Markus, Chatham House Report, 2012, “Angola Post-Election: What Next?” <https://www.chathamhouse.org/media/comment/view/185575>

16 Weimer, id.

17 Southern African Development Community Election Observation Mission, Preliminary Statement Angola Elections 2012 http://aceproject.org/ero-en/regions/africa/AO/angola-preliminary-statement-general-elections-of-1/at_download/file

18 Freedom House, 2016 Angola Report, <https://www.justice.gov/eoir/file/868456/download>

opposition parties managed in September 2015 to hold *“their first joint parliamentary meetings to promote dialogue and discuss the state of the country with civil society leaders”*¹⁹.

As a symbol of this mistrust, it took two years for President dos Santos to eventually swear members of the Council of the Republic in 2015. The members were appointed in 2013. This Council is a *“presidential advisory body that is constitutionally required to include members of the opposition”*²⁰.

There has been a lack of political will to organise municipal elections in Angola for many years. In 2014, these elections were officially postponed until after the 2017 General Elections. Difficulties to organise the 2012 General Elections were mentioned among others by President dos Santos to justify this postponement. This decision was unilateral and criticised by the opposition²¹. Power is concentrated in the capital of Luanda and mostly in the hands of the President. There is no proper devolution or decentralisation process in place, which could be due to the legacy of distrust from the civil war. However, this is constraining the efficiency of public institutions towards human development at the local level and is also an obstacle to building a culture of power sharing.

In November 2015 dos Santos confirmed that the next General Elections would be held in August 2017. In 2016, dos Santos announced that he would retire after a potential re-election in 2017. He was extremely criticised for that. President dos Santos’ son was appointed at the helm of the wealth sovereign fund and his daughter to the state-owned oil company. These moves were perceived as a manoeuvre to secure dos Santos’ financial interests. No further Søren Jensen²² from Chatham House explained that *“the old guard shut the door for further political advancement of close family members”*. In February 2017, President dos Santos confirmed that he would not run in the 2017 elections and would retire²³.

This situation seems to prove a certain level of political maturity within the MPLA according to Søren Jensen from Chatham House and that *“Angola is following a pattern of gradual democratization.”*²⁴

1.3 A Country Slowly Moving Away from Extreme Poverty and War Stigmas

The security situation remains specific to a country with decade-long wars. It is hard to get exact numbers, but there are many weapons across the country and there are many military people. In 2012, the Stockholm International Peace Research Institute (SIPRI) estimated²⁵ at around 117,000.00 the number of security forces in Angola, making it the second largest military power, after the Democratic Republic of Congo, in the SADC region and one of the most militarised country in Africa.

After 15 years of peace, landmines remain an issue inhibiting *“agriculture, construction, and freedom of movement, particularly in rural areas”*²⁶.

19 Freedom House, 2016 Angola Report, <https://www.justice.gov/eoir/file/868456/download>

20 Freedom House, 2016 Angola Report, <https://www.justice.gov/eoir/file/868456/download>

21 Freedom House, 2016 Angola Report, <https://www.justice.gov/eoir/file/868456/download>

22 Jensen Søren Kirk, Chatham House, 2017, “Angola Prepares Life After Dos Santos” <https://www.chathamhouse.org/expert/comment/angola-prepares-life-after-dos-santos>

23 Jensen, id.

24 Jensen, id.

25 Stockholm International Peace Research Institute (SIPRI), 2012 Yearbook, <http://www.sipriyearbook.org/view/9780199650583/sipri-9780199650583.xml>

26 Freedom House, 2016 Angola Report, <https://www.justice.gov/eoir/file/868456/download>

Corruption, patronage and state-capture can also be mentioned among the list of electoral-related drivers in Angola. The electoral machine and state resources at the disposal of the ruling party create an imbalanced political situation at times of electoral campaigns. Angolan military, business and political elites are extremely intertwined and benefit from a lack of transparency. A corruption investigation in Brazil revealed²⁷ that the Brazilian construction company Odebrecht paid up to US\$50 million to Angolan government officials to secure public work contracts.

Isabel dos Santos, the President's daughter's, was appointed in June 2016 as the Chairwoman of the Board of Directors of the State Oil Company, Sonangol. This decision was criticised by anti-corruption activists in the country. The company is world famous for lack of transparency in the accounting of oil revenues. In 2012, the International Monetary Fund stated²⁸ that there was no official explanation for US\$4.2 billion missing for the period 2007-2010. The government denied that the funds went missing. The official explanation was that there was insufficient record keeping by Sonangol for spending done by the company on behalf of the government in the fields of infrastructure.

The 25-million-inhabitant country²⁹, ranked poorly, 163 out of 167, in the 2015 Transparency International Corruption Perception Index³⁰. The socio-economic indicators of Angola remain among the lowest and most unequal in the world 15 years after the end of the civil war. The indicators are globally improving but remain low. The economic situation has improved drastically at the macroeconomic level thanks to the oil prices hike of 2005-2015. However, as the prices went down over the last couple of years, the economic and financial situation of the country worsened, weakening the financial resources of the Angolan state. In 2015, 70% of the Angolan population was estimated to live on US\$2 a day or less. The delivery of basic services such as water, electricity, health and education is not satisfactory. Angola is the deadliest place for children in the world with one in six Angolan children dying before the age of five. At the same time, Isabel dos Santos, the President's daughter's wealth was estimated at US\$3.4 Billion³¹. In 2014, the United Nations Development Programme (UNDP) estimated the income inequality in Angola with the Gini coefficient³² at 42,7³³ – making Angola one of the most income unequal country in the world. The UNDP also estimates that on average Angolan citizens have only 5 mean years of schooling, which is among the world lowest. In its annual Human Development Report (HRD) capturing the Human Development Index (HDI), the UNDP shows a positive trend in Angola but at a very low pace. The country is slowly improving levels of human development, getting richer but maintaining huge income inequality and unequal share of the human development improvement with huge parts of its population living in extreme poverty.

Angola is also hit by the demographic youth wave currently taking place across the African continent. The median age³⁴ in the country is 16.1. This can contribute to societal and political tensions.

Angolan human rights activists, lawyers, journalists, and youth activists find it very difficult to operate

27 The New York Times, December 21, "Secret Unit Helped Brazilian Company Bribe Government Officials." https://www.nytimes.com/2016/12/21/business/dealbook/odebrecht-brazil-company-bribe-kickback-braskem.html?_r=1

28 Reuters, May 10, 2012, "Angola explains \$27.2 billion of missing funds – IMF" <http://www.reuters.com/article/angola-imf-idUSL5E8GAEPJ20120510>

29 World Bank, Country at a Glance, 2015: <http://www.worldbank.org/en/country/angola>

30 Transparency International, 2015 Corruption Perception Index <https://www.transparency.org/cpi2015>

31 Transparency International, 2015 Corruption Perception Index <https://www.transparency.org/cpi2015>

32 Wikipedia, Gini Coefficient, https://en.wikipedia.org/wiki/Gini_coefficient#cite_note-2

33 United Nations Development Programme, 2016 Human Development Report, Angola, <http://hdr.undp.org/en/countries/profiles/AGO>

34 United Nations Development Programme, 2016 Human Development Report, Angola, <http://hdr.undp.org/en/countries/profiles/AGO>

in their country. In 2017, Angola ranked 125 out of 180 countries in the World Press Freedom Index by Reporters Without Borders³⁵. Human Rights Watch (HRW) stated in its 2015 Angola report that: *“Since 2011, the government has responded to any kind of peaceful anti-government protest with excessive force, arbitrary arrests, unfair trials, harassment and intimidation of protest activists, and attacks against reporters and passers-by. In 2014, violent crackdowns against youth and other peaceful protesters continued”*³⁶.

Section II - The Frequency and Geographical Spread of Election-Related Violence

Since the end of the civil war in 2002, election related violence has been mostly reported around the elections in 2008 and 2012 and in the pre-electoral phase in particular.



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During the August 2008 elections, the European Union Election Observation Mission³⁸ reported the following incidents: in Ekunha (Quipeo) in the Huambo province, on August 14, 2008, 1 person injured; in Benguela province, Balombo, on August 23, 2008, 8 persons injured; and in the Cazenga municipality in the Luanda province, on August 3, 2008, 2 persons hospitalised.

In 2008, HRW³⁹ *“highlighted cases of intimidation and unchecked violence by local MPLA supporters in rural areas of Huambo, Benguela, and Bie”*. The organisation documented three incidents in these provinces against UNITA delegations trying to campaign: *“the police escorted the UNITA delegations and did intervene to prevent further escalation, but there is no indication that the police have prosecuted those suspected of responsibility for the attacks.”*

35 Reporters Without Borders, 2017 Freedom of the Press Index, <https://rsf.org/en/ranking?#>

36 Human Rights Watch, 2015 Angola Report, <https://www.hrw.org/world-report/2015/country-chapters/angola>

37 Election Passport, Map of Angola, <http://www.electionpassport.com/>

38 European Union Election Observation Mission, 2008 Angola Report, http://www.eods.eu/library/fr_eueom_angola_08_en.pdf

39 Human Rights Watch, Angola Report, 2009, “Democracy or Monopoly? Angola’s Reluctant Return to Elections”, <https://www.hrw.org/report/2009/02/23/democracy-or-monopoly/angolas-reluctant-return-elections#page>

Reconciliation between MPLA and UNITA supporters has been particularly fragile in the rural areas of Huambo, Benguela, and Bie provinces. They were strongholds of UNITA in the 1992 elections. Heavy fighting took place there during the civil war. Most of the electoral-related violence is reported from these areas.

The enclave of Cabinda is another hotspot of electoral-related violence where an armed conflict “*has continued despite a 2006 peace agreement*”⁴⁰.

In 2012, elections were considered as peaceful and without any major incident.

Nevertheless, there are media reports that are sometimes hard to double check about electoral-related violence from time to time. There are several reports of violence against political demonstrations in Luanda especially when they are, or perceived as, opposing the ruling party’s policies. In its 2016/17 national report about Angola, Amnesty International⁴¹ reported about the case of seventeen youth activists, called “the Angola 17”, arrested and convicted of “preparatory acts of rebellion” and “criminal conspiracy”. Fifteen were arrested in June 2015 in Luanda for attending a political meeting discussing governance issues. The other two, who were women, were detained only after sentencing. Amnesty International considered them as prisoners of conscience: “*imprisoned and convicted solely for the peaceful exercise of their rights*”. After the rapper MCK made calls for “the Angola 17” to be released, he was prevented from travelling to Brazil where he was supposed to have a concert⁴².

In the same report, Amnesty International pointed out an issue with the freedom of association. Several human rights Civil Society Organisations (CSOs) such as SOS-Habitat, “*faced undue restrictions on accessing their own funds, including from international sources*”. In March 2015, a presidential decree was issued requiring NGOs to register with the government to be allowed to operate. Specific authorisations must be obtained by these organisations to receive donations⁴³.

In terms of governance, Angola is slowly improving as well. In its 2015 report, the Mo Ibrahim Foundation ranked Angola 43 out of 54 in terms of governance indicators. The Foundation highlighted a positive overall trend and called for Angola to maintain the momentum. They reported about slow progress in accountability and deterioration in personal safety. However, Angola accelerated in terms of participation and Human Rights especially thanks to improvement in the field of gender equal rights. Angola was the sixteenth most improved country in Africa in this field according to the Mo Ibrahim Foundation⁴⁴.

Section III – Electoral Administration and the Legal and Institutional Mechanisms for Addressing Electoral Violence

The first Constitution (1975-1992) was revised or amended in 1991 and 1992 in the light of the structural changes occurred in the international context that greatly affected the countries of Southern Africa.

40 Human Rights Watch, Angola Report, 2009, “Democracy or Monopoly? Angola’s Reluctant Return to Elections”, <https://www.hrw.org/report/2009/02/23/democracy-or-monopoly/angolas-reluctant-return-elections#page>

41 Amnesty International, 2016/17 Angola report, <https://www.amnesty.org/en/countries/africa/angola/report-angola/>

42 Deutsche Welle, January 27, 2017, “One foot in jail: The Angolan Rapper MCK” <http://www.dw.com/en/one-foot-in-jail-the-angolan-rapper-mck/av-37304811>

43 Freedom House, 2016 Angola Report, <https://www.justice.gov/eoir/file/868456/download>

44 Mo Ibrahim Foundation, 2015 Angola Report, http://static.moiabrahamfoundation.org/u/2015/10/02201302/02_Angola.pdf

UNITA and the MPLA did not collaborate to revise the Constitution following the election results of September 2008. The National Assembly elected in 2008 acted as a Constituent Assembly. The revised Constitution was adopted with the votes solely from the MPLA. During the debate of the Constitution in the Parliament several articles did not have the endorsement or consensus of the opposition. During the constitutional process the State consulted Civil Society Organisations (CSOs). However, there were several criticisms about this process: time constraints, poor dissemination of the process, lack of clarification on methodology and scepticisms regarding the effectiveness of the contribution from citizens. The new Constitution came into effect from February 5, 2010. The 2010 Constitution established a presidential parliamentary system. The president is no longer elected by direct popular vote but instead the head of the party that wins the most seats in Parliament. The Constitution also sets a limit of two five-year presidential terms.

The 2010 Constitution⁴⁵ extended the scope of fundamental rights in Angola, demonstrating a significant improvement in the prevention of election-related violence. This Constitution created or secured the existence and competence of institutions such as the National Assembly, the Ombudsman and the Courts.

Freedom of assembly and expression is consecrated in Article 47 of the Constitution⁴⁶. It states that peaceful and unarmed demonstrations and meetings do not require any kind of authorisation. Organisers of such events are only required to communicate about the event in order for to the competent authorities to ensure the security and integrity of participating citizens. However, in practice, violence is common at these events, especially when they are organised by those who do not align with the government as in “the Angola 17” case.

The new Constitution guarantees the freedom of press. However, the State exercises strong control over the national media, owning two national television stations, the radio and the country’s only daily newspaper. It is frequent to see Angolan journalists being arrested and put on trial for criticising the government such as Rafael Marques de Morais. de Morais, who is also a human rights activist, accused generals and a diamond company of human rights abuses⁴⁷. He was sentenced to six months of jail time. Freedom of expression is severely restricted in Angola due to censorship and self-censorship in state media as well as ruling party-controlled private media and other forms of government repression. In such a climate, internet blogs and social media have become the main channels for open debate. The government regularly uses criminal defamation laws and other legal provision to silence journalists.

The freedom of religion is also guaranteed, however, again in practice it is extremely complicated for new groups to be registered and so far only Christian structures are legally operating in the country despite the fact that several thousand Angolan are Muslim.

While it is also worth noting that the current Constitution is better organised and provides more rights for citizens, this is mostly a technical improvement. State institutions are generally dominated by the MPLA and MPLA affiliates, contributing to a winner-takes-all atmosphere and limiting the political openness within the country. The MPLA is hegemonic in most political and administrative spheres. In 2008, HRW raised doubts about the effectiveness of the police and the official will of judiciary institutions to

45 The Institute for International and Comparative Law in Africa, University of Pretoria, South Africa, Angola 2010 Constitution, http://www.icla.up.ac.za/images/constitutions/angola_constitution.pdf

46 Angola 2010 Constitution of the Republic of Angola: http://www.icla.up.ac.za/images/constitutions/angola_constitution.pdf

47 Freedom House Angola Report 2015 <https://freedomhouse.org/report/freedom-world/2015/angola>

bring electoral-related violence perpetrators to court. However, HRW⁴⁸ reported that before the elections newly appointed provincial police commanders made efforts to reinforce non-partisan policing.

In 2012, the electoral process was flawed in many key aspects: lack or delay of accreditations of party agents and international observers, failures to respect legal timelines, absence from polling stations of the voters' roll, etc.

Section IV - Key Factors for Preventing Electoral Related Violence and Strengthening Early Warning Mechanisms

To ensure peace, reconciliation and consolidation of democracy in Angola it is necessary that the ruling party adopt or design policies and carry out dialogue with other opposition political parties as well as with civil society. Inter-party political commitments can prevent violence and ensure sustainable and peaceful development environment. It is also key for the opposition party to adopt a similar approach of promoting dialogue and seeking compromise and building national interests.

Angola is still in search of a political and democratic stability requiring consensus among the different political parties in parliament and civil society. The return of weapons in Mozambique shows that ill-resolved conflict can derail a democratic process in spite of regularly organised elections. Angolan political parties should work towards building trust.

The Angolan National Electoral Commission has demonstrated some capacity to adapt, modifying its model after each election. Adapting and learning are positive features of an electoral commission. Some lessons from the 2008 and 2012 elections are that the courts need to be more expeditious in dealing with electoral-related violence and contestations of electoral results. More guarantees should be offered by the police and the judiciary institutions in terms of fair and balance approach in the fields of political participation and elections.

Angola regional membership to SADC has offered the country a unique opportunity to benchmark and learn from the fourteen other members in terms of electoral preparedness. Angola participates regularly to the observation of other electoral processes in the region. Angola assumed also regularly the chairmanship of the Organ for Politics, Defence and Security. It is the SADC body overseeing elections and coordinating the SEOM. In June 2008, it is under Angolan auspices that SADC rejected the results of the violent Zimbabwean presidential elections. It is the only time that SADC ever rejected a process, stating that: *"The elections did not represent the will of the people of Zimbabwe"*⁴⁹. The NEC is also a member of the Electoral Commissions Forum of SADC countries (ECF-SADC) enabling the commission to benefit from capacity-building programmes and recommendations from peers.

There is no model of organisation and electoral management that can be recommended for all countries but what is suggested to Electoral Management Bodies (EMB) in Angola are good practices, especially those that help to prevent manage electoral conflicts. The three last elections held in Angola revealed the lack of communication, experience and understanding of all actors involved in the electoral process. The EMB in Angola, the National Electoral Commission should be set on a permanent mechanism for

48 Human Rights Watch, Angola Report, 2009, "Democracy or Monopoly? Angola's Reluctant Return to Elections", <https://www.hrw.org/report/2009/02/23/democracy-or-monopoly/angolas-reluctant-return-elections#page>

49 Southern African Development Community Election Observation Mission, Preliminary Statement Zimbabwe Presidential Elections 2008, <http://aceproject.org/regions-en/countries-and-territories/ZW/reports/zimbabwe-preliminary-statement-by-sadc-2008>

dialogue and conflict prevention throughout the electoral process. The fulfilment of the electoral operations process go beyond the mere application of legal requirements. More focus needs to be put on the pre-electoral process. Electoral rules must be agreed upon among the political parties. Civic education is key towards all groups of the population in order for them to be understood and respected by all.

Angola is not a signatory party to the African Charter on Democracy, Elections and Governance but the country adopted the SADC Principles and Guidelines Governing Democratic Elections. However, its applicability regarding some aspects is still weak. One example is the use of public resources and access to public media. The Angolan Constitution guarantees freedom of the press as a fundamental right. However, the ruling party dominates the public media. There is still a perception that in some cases the public media is not sufficiently open to non-governmental and opposition voices. Equal access to the public media could be improved and fair reporting could be promoted. In terms of the use of public resources, a fairer balance could be promoted using examples from across the world and Africa.

One of the main points of electoral tensions in Angola is the case of voter registration. The country has been experiencing several models for the electoral registration. Angola has used different models for each election. It is currently working on a new model for the August 2017 elections. The electoral registration for 2017 started on August 25, 2016, in line with the Angolan Constitution. Transparency and credibility of the electoral roll can be improved. There were difficulties about this matter in the 1992, 2009 and 2012 elections with reports of missing voters roll in some polling stations. These situations have caused a lot of distrust and suspicion which resulted in conflicts. Availability and accuracy are key principles of a credible voters' roll and of a sound and credible electoral process. The SADC Principles and Guidelines Governing Democratic Elections recommend that the voter registration process should promote broad participation and should not inhibit the participation of eligible voters. There should be sufficient time for eligible voters to register, for public inspection of the voters' roll, for objections and for adjudication of appeal; provision should be made for political parties to monitor the voter registration process through party agent appointed by themselves; parties should easily access the voters' roll. The issue of electoral rolls has been a complex challenge for the National Electoral Commission in Angola. The frequent mobility of the population in search of better opportunities both within and outside of the country and a very high mortality rate make the process even more complex. Given this situation, the electoral rolls have been completely inadequate. It is only in 2014 that the authorities conducted the first post-colonial population and housing census. A year before, in 2013, they launched a civil registration campaign promoting free access to birth certificates and identity documents.

The ruling party and the main opposition party have been fighting for many decades, which fuels distrust and tension in the political sphere to the present day. Due to the chronic fighting and distrust, human rights activists and democratic promoters are labelled as supporters of the political opposition party by the ruling party. Any attempt that can be perceived as a criticism against the ruling party is enough to be perceived as an enemy. CSOs should focus on the technical aspects of human rights and democratisation to create trust and confidence and stay away from politics.

The Angolan police have the task of maintaining order, public security and guarantee the rights and freedoms of citizens enshrined in the Constitution. We saw that international organisations such as HRW have reported improvements in police behaviour in the field of electoral-related violence. However, in many cases, this state body still intimidates, uses force, firearms, detentions and degrading treatment against citizens who demonstrate peacefully and unarmed. These practices have generally been accompanied by arrests and criminalisations of journalists' activities who cover the demonstrations.

The effectiveness of human rights in producing social change is closely related to the effectiveness of the judicial system to affect these rights. The courts do not do enough to resolve social conflicts. In the context of Angola, greater freedom of expression, assembly and demonstration, equal access to justice and rights, and many other constitutionally guaranteed rights have to be protected. It requires a culture to do so beyond the simple legal adoption of these rights.

In July 2016, an amnesty law was passed for detainees and convicts sentenced before 11 November 2015. It can be considered as a clear improvement before the 2017 elections. However, some of “the Angola 17” refused to benefit from this amnesty since they considered themselves not to have done some thing to deserve being sentenced and jailed in the first place⁵⁰.

Angola has slowly been moving on a path to combat corruption by creating a legal framework during the past ten years. In November 2006, the government issued the Decree 48/06 about the national oil company, Sonangol, and how production licences and agreements with national or foreign oil companies must be granted.

Section V - Conclusions and Recommendations

5.1 Conclusions

Angola is slowly moving away from several decades of independence and civil wars. The country strives to tackle the physical, social and political legacy of the Civil War.

The democratic stability and the maintenance of social peace in Angola remains fragile. The socio-economic situation improves slowly as well. Step by step, Angola is setting up state institutions. Since the end of the Civil War in 2002, 2 peaceful elections took place in 2008 and 2012 and a new Constitution was adopted in 2010. The country is entering the final phase prior to its next elections in August 2017. José Eduardo dos Santos, the second longest serving President in Africa after Obiang from Equatorial Guinea, announced that he would not run. He has been in charge since 1979.

Angola’s wealth and military power have made the country an influential power in Africa. Since the end of the Civil War, Angola has attracted business interests from all over the world contributing to a certain extent to limited considerations from external actors to the countries’ poor governance and Human Rights record.

Since 2002, Angola has made substantial progress in the economic and political fields. However, the country continues to face massive developmental challenge which includes reducing the dependency on oil and diversifying the economy, rebuilding its infrastructures, improving institutional capacity for governance or public financial management. The income inequality is high and the largest parts of the population still live in extreme poverty.

Electoral-related violence is relatively common even if the 2008 and 2012 elections did not have any major incidents. Among the drivers one can find are the patronage, nepotism and distrust inherited from the decades-long civil war. The relations between political parties remains tense and there are common reports about harassments of journalists and human rights activists in the capital of Luanda.

⁵⁰ Amnesty International, 2016/17 Angola report, <https://www.amnesty.org/en/countries/africa/angola/report-angola/>

Angolan politics finds its roots in conflict and this has framed political interactions until now. Even if the national contexts are different, the recent return to turmoil in Mozambique shows that ill-resolved conflicts and lack of common national interests can derail a process that seems to be moving away from wars. So far, in Angola it seems that there is a common understanding and reluctance to return to a conflict.

5.2 Recommendations

In order to improve the overall electoral situation, prevent and mitigate electoral-related violence, it is recommended to:

National Election Commission and the Legislator

- Fully implement the SADC Principles and Guidelines Governing Democratic Elections;
- Adhere to the African Charter on Democracy, Elections and Governance;
- Adopt a comprehensive and full electoral cycle process approach;
- Create a mechanism capturing electoral-related violence;
- Adopt the concept of consultative panels involving political parties, CSOs and independent citizens;
- Benchmark and adopt best practices from within the region, and adopt and contribute to international standards;
- Make accreditations to party agents, media representatives, CSOs and international observers available on time for them to observe the elections nationwide and at all stages of the process;
- Make the voters roll available and easily accessible;
- Make a fair access to public media possible to all political parties throughout the electoral process; and,
- Allow for an international and independent technical support audit of the 2017 elections to take place in good spirit with the National Electoral Commission of Angola aiming at recommending best practices.

Police, Judiciary Institutions and the Legislator:

- Build a culture for the protection of human rights beyond the passing of legal documents;
- Benchmark with best practices and implement them regarding the management of electoral results which are contentious and issue reports about political and electoral incidents; and,
- Strengthen anti-corruption institutions so they can deliver results.

All Angolan political parties to:

Work together towards building trust and building common national interests.

Democratic Republic of the Congo
Author : Robert Gerenge

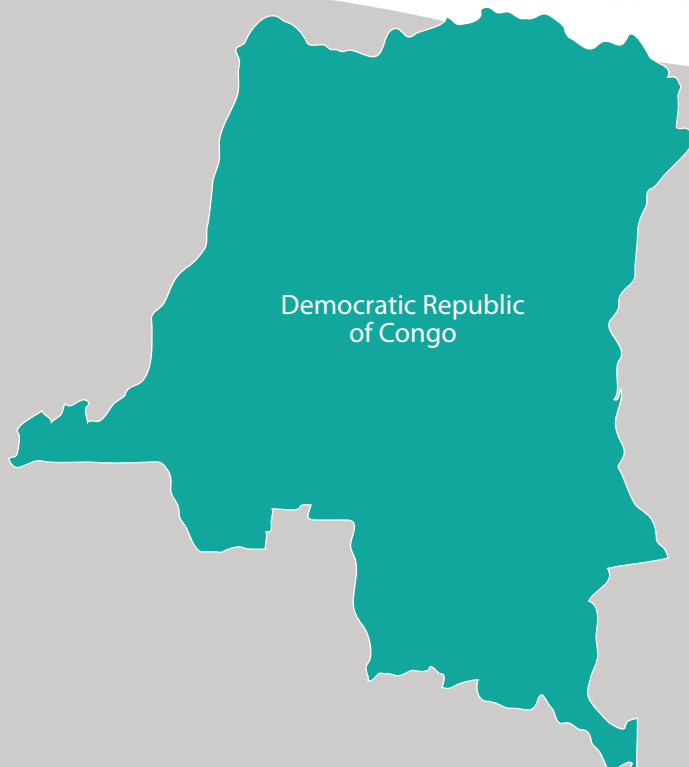


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1. Introduction

In 2006 and 2011, the Democratic Republic of Congo (DRC), Africa's second largest country, held its first and second post-civil war elections respectively. While the 2006 elections were generally deemed as peaceful, transparent and credible by international and citizen observers, they were not without incidents of violence, particularly in the capital city, Kinshasa. The elections in 2011 presented a diametric departure from the gains of 2006, at both political, operational and technical levels and had substantial cases of irregularities and incidents of violence. The political crisis that ensued from the botched electoral process in 2011 subsequently haunted the DRC by impacting negatively on the subsequent electoral cycle (2012-2016) as new dynamics on contestation of political power further eroded the precariously knitted political fabric of the country. In November 2016, the DRC did not hold elections as stipulated by the Constitution when President Joseph Kabila's second and final term came to an end, which has further convoluted the prevailing political crisis. Fundamentally, the post-civil war electoral processes and related conflicts in DRC have illuminated the phenomenon of inconclusive electoral cycles which necessitates closer attention within the conflict resolution and political science disciplines.

Current literature on post-conflict elections in DRC and other contexts offer useful insights on the complex dynamics of managing peaceful political transitions (ICG, 2006; 2010; Harry, Reilly and Anstey 2002; Santiso 2002; Elbadawi, Hegre and Milante 2008; Kühne, 2010; Brancati and Snyder, 2011; Flores and Nooruddin 2012; Lyons, 2002; Collier, 2009; De Zeeuw, 2008; Kabemba, 2011; Kadima et al, 2009). Drawing from multiple case studies, López-Pintor (2005) offers insights on the security, technical, operational and financial costs and dynamics of organising "first generation" post-conflict elections and how these have an impact on subsequent electoral cycles in a non-linear scale. Collier (1995) offers useful insights on the problematic of achieving economic dividends in post-conflict settings. In the same vein, Menocal and Fritz (2007) argue that governments constituted through the first post-conflict elections hardly sustain legitimacy based on performance. Literature on the DRC post-conflict democratisation process pays little attention on the dynamics of electoral-related conflicts within the conceptual analytical framework of first and second post-conflict electoral cycles. This framework increases our understanding on how unresolved problems of organising first post-conflict electoral processes generate new dynamics for contestation of power in the subsequent cycle of elections. The conflict dynamics in the second post-conflict election cycle emanate from the quest for peace or governance dividends. Within the electoral cycle framework, one notes that an electoral process that does not achieve its logical conclusion perpetuates electoral-related conflicts in the subsequent cycles.

The study on electoral-related conflicts in the DRC demonstrates distinctive challenges. In 2006, the "first-generation" post-conflict cycle of elections was faced with challenges of security. Understandably, this is characteristic of any immediate post-conflict context, where for instance, transforming rebel actors to civilian political actors is a daunting task. This chapter examines how the unresolved conflict dynamics in "first-generation" elections in a country emerging from deadly political cataclysm such as civil war tends to be exported into the next electoral cycle, where the arena for contestation of political power transforms into a seedbed for violence. This volatility is compounded by the nature of electoral politics characteristic of the "second generation" elections in a country emerging from political conflict, which are conceptually distinct from the first-cycle of elections. In the first-cycle of elections, the electoral politics centre mostly on 'peace mantra' or "voting-for-peace". In the second cycle, a high premium tends to be placed on the quest for 'peace' dividends that extend to claims for social and economic returns of the new political order, which in effect, raises new stakes of electoral competition that are distinct from previous electoral contestations.

This chapter is structured into six sections. After this introduction, the next section examines the conceptual framework of first and second post-conflict election cycles. Section three reviews the historical provenance of the 2006 and 2011 electoral processes. Section four explains electoral-related conflicts in the DRC. Section five examines mechanisms for resolving electoral-related conflicts. The final section is on conclusion and recommendations to inform future policy and programming on managing

electoral-related conflicts.

2. Syndrome of First and Second Post-Conflict Election Cycles

In deeply divided societies, particularly those emerging from deadly political cataclysms such as civil wars, elections are considered integral to a democratic political transition. Elections constitute an important element of the process of restoring a constitutional order in a post-conflict society (Harry, Reilly and Anstey 2002; Santiso 2002; Elbadawi, Hegre and Milante 2008; Kühne, 2010; Brancati and Snyder, 2011; Flores and Nooruddin 2012). In Africa, most countries which have experienced civil wars, popular revolutions or military coups, such as Mali (2012), Mozambique (1977-1992), DRC (1996-1997; 1998-2002), Libya (2011-2012), Central African Republic (2012-2013), Egypt (2010-2011;2013), Tunisia (2010-2011), Burkina Faso (2014, 2015), and Burundi (1993-2005), have all held elections as a means of reconstituting and legitimising political power.

In most post-conflict political settlements, the conduct of the “first” elections often form part of the peace accords or political road maps sometimes enshrined in transitional constitutions. Examples of such political settlements include the Comprehensive Peace Agreement of 1992, Mozambique; Global and Inclusive Accord of 2002, DRC; Arusha Peace and Reconciliation Agreement for Burundi, 2000; Agreement on the Resolution of the Conflict in the Republic of South Sudan of 2015, South Sudan; and the Roadmap for Ending the Crisis in Madagascar, 2011.

Most post-conflict elections generally experience complex political, social, economic and security challenges which pose a serious burden to the political, operational and technical aspects, and the credibility of the electoral process. These challenges offer complex priorities in a context of constricted transitional timelines, where various processes that form part of the state reconstruction trajectory run parallel rather than in sequence to one another. Lyons (2002) notes, for instance, that the democratisation process in post-conflict states takes place alongside demobilisation and reintegration of soldiers of different guerrilla warfare groups, as was the case in countries such as Burundi, CAR, Cote d'Ivoire, DRC, and Mozambique. At the same time, the process of resettling internally displaced persons and refugees and initiatives on transitional justice, healing and reconciliation constitute the process of restoring social and political order. All these transitional processes variably interact with each other and the overall environment to produce unintended consequences on post-conflict electoral processes (Cox, 2001; Lyons, 2002).

As a result, certain undesirable features that predominate the first cycle of elections in a country emerging from deadly conflict may overlap in the subsequent electoral cycles. For instance, the process of transforming rebel organisations into political parties, through deconstructing previous guerrilla, does not always end in the first cycle of elections. An illustrative case is the RENAMO political party which was a guerrilla organisation during the Mozambican civil war (1977-1992). Despite transforming itself into a political party and contesting for power in more than three electoral cycles, the party has continued to portray features of a ‘rebel group’ by engaging in intermittent insurgencies in Central Mozambique (Wiegink, 2015).

Therefore, it is not surprising to note that there is always a high premium placed on the first post-conflict elections by the international community, which tends to wane in the second-cycle of elections. However, it is the second cycle of post-conflict elections which serves as a litmus test of what Kammerud (2012) refers to as the ability of the process and system to withstand shocks. It is important to note that the disparate overarching politics that characterise the first and second cycle of post-conflict elections have implications on the nature of electoral competition and ultimately on the character of electoral-related conflicts. I stated elsewhere (Gerenge, 2014) that the electoral politics around the crisis-exit (first-cycle) elections tend to emphasize on peace mantra, particularly due to the country's ominous need to break away from the gruesome past. Although social and political cohesion remains a central concern in subsequent post-conflict electoral cycles, the politics centring on second-cycle of

elections are often dominated by government performance-oriented issues such as social inclusion, poverty eradication, education, health, employment, and security (Collier, 1995; 2009). These elections therefore manifest new conflict dynamics that may be more intractable to resolve, particularly due to the palpable challenges of reconciling government performance and citizens' expectations of 'peace' or 'democracy' dividends. Subsequent cycles of elections, arguably, reproduce nuanced political dynamics along the continuum of clamour for the dividends of [new] political order. This analytical framework, therefore, offers useful lens in drawing our attention to the nature of electoral politics and conflicts within the crucible of inconclusive electoral cycles in the DRC, where a cycle that has not attained its logical conclusion becomes a vehicle for exporting conflict and violence into another cycle.

3. Historical and Contextual Provenance of the 2006 and 2011 Electoral Processes

Like many African states, the colonial legacy of the DRC left by Belgium (and the antecedent King Leopold II who appropriated the country as a personal property) created the foundation for a precarious state-building process. At socio-economic level, the Belgian colonial government sought to maximise the derivatives of imperialism by pursuing education policies which were consistent with the prevailing power structures, and paid little attention to the real educational needs of the natives (Ndoma, 1984). As a result, the colonial policy created a cadre of African *petite bourgeoisie* (*évolués*) with limited knowledge and skills for successfully steering viable post-independent governance.

The mode of extraction by the Belgian colonial administration created tensions within the African society that, as we shall see later on the case study of electoral conflicts, became a source of political polarisation by sowing seeds of ethnic divide. According to Jewsiewicki (1980:24),

"the African petite bourgeoisie held an ambiguous position in colonial society: drawn by their class interest towards the colonial state, but forced by the interests of the colonial social order towards black peasantry. For a long time, the African petite bourgeoisie, was an agent of development of a 'horizontal' type of consciousness stressing the interests of the brothers within the African social order".

While brotherhood was easily conceived in rural areas due to convergences in cultural and ethnic associations, this was not necessarily the case in urban centres which were a product of the colonial extractive policies. Crowley (1963: 1) illuminates this experience by observing that:

"In Katanga, urbanisation does not seem to produce extensive detribalisation. Although tribes are mixed together indiscriminately at work and in housing, tribal affiliation remains the most important factor in social life, marriage, and political orientation".

Indeed, for Africans, urbanisation resulted in creating a new search for cohesion within an artificial social space by withdrawing individuals from rural communities to work in the towns (Jewsiewicki, 1980). In addition, the mode of economic life in towns, on the back of limited opportunities, created competition for social status among the African *petite bourgeoisie*. Accordingly, it is not surprising that political parties in DRC were formed under the aegis of ethno-cultural associations in the cities under the direction of the lower level of the *évolués*, who saw in them opportunities for upward mobility (Crowley, 1963). The tendency of creating parties around ethnic associations was sustained by the politics of personality cults that continued to shape both peace and wartime post-independent politics in DRC. Understandably, nationhood was a foreign concept for Africans. It was the local politics which essentially gave impetus for national political agendas. Patrice Lumumba's insistence on a unitary government, for instance, derived in part from his desire to ensure that his tribe, the impoverished Tetela of the Kasai, would share the Katanga's wealth (Crowley 1963:71).

The Congo became independent from Belgium on 30th June 1960. The date marked the beginning of a long history punctuated by political cataclysms that have lasted to date. The democratic political order following the free and fair elections of 22nd May 1960 that ushered the first post-independence regime

under President Joseph Kasavubu, leader of Alliance des Bakongo, and Prime Minister Patrice Lumumba, was thrown into a quandary as the country became a theatre of Cold War politics. The Congo crisis was set in motion by the Katanga and South Kasai secessions in July and August 1960 respectively. These were propelled by a quest for ethnic, economic and political benefits, and were partly backed by the Belgians. Barely 7 months after independence this crisis mutated. On 17th January 1961, the assassination of Patrice Lumumba, allegedly with tacit foreign support (Nzongola-Ntalaja, 2011; Gerard and Kuklick, 2015) further decimated the early post-independence democratic political order of the Congo.

A coup d'état on 24th November 1965 by Lieutenant-General Joseph-Désiré Mobutu set the country on the road to despotic governance. Elections started to serve as an instrument of rubber-stumping regime sustenance rather than being genuine exercises of democratic choice (Turner, 1997; Kabemba, 2011). On 17th April 1967 Mobutu entrenched the country into a one political party state under the aegis of the *Mouvement Populaire de la Révolution (MPR)*. Mobutu's despotic rule was buttressed by Western support as it gained traction through the Cold War politics and sustained by the vast natural and mineral resources in the country (Gerard and Kuklick, 2015). Under the MPR, Mobutu stood unopposed in presidential elections but allowed a modicum of "controlled" parliamentary competition within the party (Kadima, Leonard and Schmidt, 2009). The Mobutu Government was periodically renewed through electoral authoritarianism (Schedler 2006) as elections tended to be mere "trappings but not the substance of effective democratic participation" (Marshall and Jagers 2002:12).

The struggle for restoration of multi-party democracy during the third wave of democratisation in Africa following the demise of the cold war did not succeed in the DRC. The National Sovereign Conference of August 1991 which was meant to craft a road map to democratisation was thwarted by Mobutu himself (Matamba 2011), and this set the stage for the prospects for unconventional seizure of political power. Growing internal political discontentment amidst the changing global context, coupled with disgruntlement of neighbouring countries with the Mobutu regime, led to a civil war between 1996 and 1997 (Turner 2007). This culminated into a coup d'état in May 1997 led by Laurent Kabila, a Congolese political revolutionary since the 1960s. Under the aegis of the *Alliance des Forces Démocratiques pour la Libération du Congo (AFDL)*, Kabila seized the reigns of political power from Mobutu in Kinshasa with support from the governments of Rwanda, Uganda, Angola, Burundi and Eritrea (International Crisis Group, ICG 1998; Turner 2007).

The involvement of foreign countries during the coup was that they became parties to the conflict within the Congolese territory. The anticipated democratic transition in which Laurent Kabila was expected to usher, quickly turned to another repressive form of governance in which political opponents and critics -both foreign and national- were silenced (Turner, 2007). This led to the second civil war in 1998, following Laurent Kabila's fall out with Rwanda and Uganda, thereby making the DRC a theatre of Africa's Great War which embroiled several African nations -both directly and indirectly- namely Uganda, Rwanda, Zimbabwe, Angola, Namibia, Burundi, Sudan, Chad, and Libya (ICG, 1998). It is also worth pointing that the involvement of those countries in the civil war ranged from interests in the vast mineral resources, to seeking solutions to complex political and security dynamics prevailing in their own countries (ICG 1998; Willems 2015). During the war, the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) estimated the number of foreign combatants in the Congolese territory to be approximately 17,500 (UN, 2006). The two civil wars collectively resulted in dire humanitarian consequences including claiming over 5 million lives, mostly by related calamities such as hunger and disease (Habeeb, 2014). Furthermore, it is the second civil war which led to geographical compartmentalization of the country as different rebel groups carved out various regions as their military and political fiefdoms, as shown in the map below.

Figure 1: Distribution of Government (and Allies- Namibia, Zimbabwe and Angola) and Rebel Forces between 1998-2000 during the second civil war



Source: ICG, 2000

The Southern African Development Community (SADC), the African Union (AU) including its precursor, the Organization of African Unity (OAU), South Africa, other regional powerbrokers and countries which were parties in the war in the DRC signed a Cease-fire Agreement on the DRC in Lusaka on 10th July 1999. Following the signing of the Lusaka Ceasefire Agreement between DRC and five other regional States, namely Namibia, Angola, Zimbabwe, Uganda and Rwanda, in July 1999, the United Nations Security Council (UNSC) established the MONUC by Resolution 1279 of 30th November 1999. MONUC was initially mandated to plan for the observation of the ceasefire and disengagement of forces and to maintain liaison with all parties to the Ceasefire Agreement (UNSC, 1999). Later in a series of resolutions, the UNSC expanded the mandate of MONUC to the supervision of the implementation of the Ceasefire Agreement and assigned multiple related additional tasks, including supporting the Congolese authorities in organising a democratic referendum and the elections in 2005 and 2006 (UNSC Resolution 1291 of 2000; Resolution 1493 of 2003, and Resolutions 1533 and 1565 of 2004).

The peace process was however dented by the assassination of President Laurent Kabila on 16th January 2001. Laurent Kabila was perceived as an obstructionist by some quarters and this is one of the reasons which may have led to his demise (Turner, 2001). He was succeeded by his son, Joseph Kabila, who was sworn in on 26th January 2001 who immediately took a favourable posture towards the peace process (BBC, 2001).

Subsequently, through the Inter-Congolese Dialogue which began from 1999, the warring parties signed the peace accord known as the Global and Inclusive Agreement on 17th December 2002 in Pretoria,

South Africa. The signatories to the Agreement comprised the Government of the Democratic Republic of the Congo, the Congolese Rally for Democracy (RCD), the Movement for the Liberation of the Congo (MLC), the political opposition, civil society, the Congolese Rally for Democracy/Liberation Movement (RDC/ML), the Congolese Rally for Democracy/National (RCD/N), and the Mai-Mai (Global and Inclusive Agreement of 17th December 2002).

The Global and Inclusive Agreement marked the end of the civil war¹ and allowed for a two-year transition period with a provision for an extension of six months renewable once. The Final Act of the Global and Inclusive Agreement which was signed on 3rd April 2003 in Sun City, South Africa, allowed for the transitional government to be officially established on 30th June 2003. The institutional arrangements of the transitional government as stipulated in the Global and Inclusive Agreement were espoused by a transitional constitution. The objectives of the transition were to: promote the reunification and reconstruction of the country, re-establish peace and restore territorial integrity and state authority in the whole of the national territory; allow national reconciliation to take place; promote the creation of a restructured, integrated national army; organize free, fair and transparent elections at all levels allowing a constitutional and democratic government to be put in place; set up structures to lead to a new political order (Section 2 of the Global and Inclusive Agreement 2002:3).

In terms of distribution of political power, a power-sharing government known the *un-plus-quatre* (one-plus-four) in the Congolese political vernacular was established. In this arrangement, President Joseph Kabila, remained as the incumbent of the transition, deputed by four Vice-Presidents, each with a specific portfolio: Vice-President Jean-Pierre Bemba Ngombo (MLC) led the Economic and Finance Commission; Vice-President Azarias Ruberwa Maniwa (RCD Goma) led the Politics, Defence and Security Commission; Vice-President Abdoulaye Yerodia Ndombasi (ex-Kabila government) led the Development and Reconstruction Commission; and Vice-President Arthur Zahidi Ngoma (political opposition) led the Social and Cultural Commission.

In addition, the transitional constitution stipulated the establishment of institutions supporting the democratic process namely the *Commission Electorale Indépendante* (CEI), the *Haute Autorité de Média* (HAM), the Truth and Reconciliation Commission, the National Commission on Human Rights, and the Committee on Ethics and the Fight against Corruption. The membership of the transitional institutions, as we shall see later with particular regard to the CEI, was based on the broader power-sharing arrangement.

The transition framework as described above granted a possible 36-months period for the Congolese people to install a legitimate government reconstituted by consent of the populace through democratic elections in 2006. These elections were preceded by a referendum on a new and permanent constitution in 2005. The constitution espoused principles of constitutional democracy which upheld the rule of law, sovereignty of the people to determine who governs them, and embraced decentralised governance to bring the public service closer to the people.

The 2006 elections could hardly be successful without greater involvement of the international community. There was strong consensus that the elections were too important to be allowed to fail and that threats to their success had to be overcome (Kadima, Leonard, Schmidt, 2009:25). Since establishment in 1999, MONUC became the emblem of the international community investment in accompanying the DRC in reconstructing the country's political, social and economic fabric. MONUC coordinated political, security, technical, and financial aspects of the electoral process in tandem with the UNDP. In total, the elections cost a staggering USD 500-million mostly funded by the international community (EISA, 2007). MONUC was the largest peacekeeping mission in the world with over 17000 military personnel and an annual budget of USD 1-billion with extra USD 103-million added to support

¹ The official end of the civil war does not necessarily mean an end to violent conflict ended in the Congolese territory. Indeed, throughout the transition and until presently, the country continues to experience violent conflicts including by foreign-backed insurgencies.

the electoral process in 2006 (The Carter Center 2007; UN 2006).

In addition, the European Union deployed a special force, the EUFOR RD Congo, comprising 800 soldiers based in Kinshasa and further reinforcements of 1200 soldiers stationed in Gabon and Germany (EU 2006; The Carter Center 2007). The deployment was pursuant to UNSC Resolution 1671 (2006) during the first and second round of elections between July-November 2006 to augment on MONUC's efforts.

In light of evolving context in the country, the UNSC through Resolution 1925 of 28th May 2010 renamed MONUC to be the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO). The UN posited that MONUSCO would be able to adapt to prevailing post-conflict reconstruction dynamics of the DRC by focusing on long-term stabilisation. However, it is worth noting that MONUSCO's degree of involvement in the electoral process in 2011 was lower than MONUC in 2006. As we shall note later, the conduct of post-conflict elections within an international peace-keeping model under varying mandates had a considerable bearing on the electoral-related conflicts of 2006 and 2011, as well as the attendant mediatory responses to conflicts in the DRC.

4. Explaining Electoral Related Conflicts in the DRC

4.1 The 2006 Electoral-Related Conflict : Causalities, Dynamics and Geographical Spread

The first post-civil war Presidential and National Assembly elections of 30th July 2006, and 29th October 2006 Presidential run-off and Provincial Assemblies elections were held amidst a complex contextual environment. In a country the size of Western Europe, where infrastructure is limited or even absent in most cases, the elections were one of the most challenging electoral operations in Africa. The elections took place against the background of ongoing security challenges, particularly in the eastern parts of the country which continued to be ravaged by various militia groups. By June 2006, barely a month before the conduct of general elections, besides the local militia groups such as the Mayi-Mayi and its different splinter groups, the total number of foreign combatants was estimated at between 8000 and 9000 on Congolese soil (UN, 2006). According to the UN (2006), 5000 foreign combatants were in North Kivu and 3000 to 3500 in South Kivu: two provinces endowed with rich mineral resources and with proximity to Rwanda, Uganda and Burundi. Out of these combatants, most belonged to FDLR, 600 Ugandan Allied Democratic Forces/National Army for the Liberation of Uganda (ADF/NALU) and some remnants of the Burundian Forces Nationales de Libération (FNL) (UN, 2006).

4.1.1 A Review of the Legal and Institutional Framework of the 2006 Electoral Process

The 2006 elections were conducted under the framework of the new Constitution which was adopted in early 2006 following a referendum held on 27th November 2005. This Constitution replaced the transitional constitution of 2003. Other set of laws that governed the electoral framework included the Electoral Law (Law No. 06/006 of March 2006); Law No. 04/002 of 15th March 2004 on registration and conduct of political parties; Law governing the establishment of the CEI (Law No. 04/009 of 5th June 2004); Law on voter registration (Law No. 04/028 of 24th December, 2004); Law on Congolese Citizenship (Law No. 04/024 of 12th November 2004); and regulations No. 003/CEI/BUR/06 of March 2006.

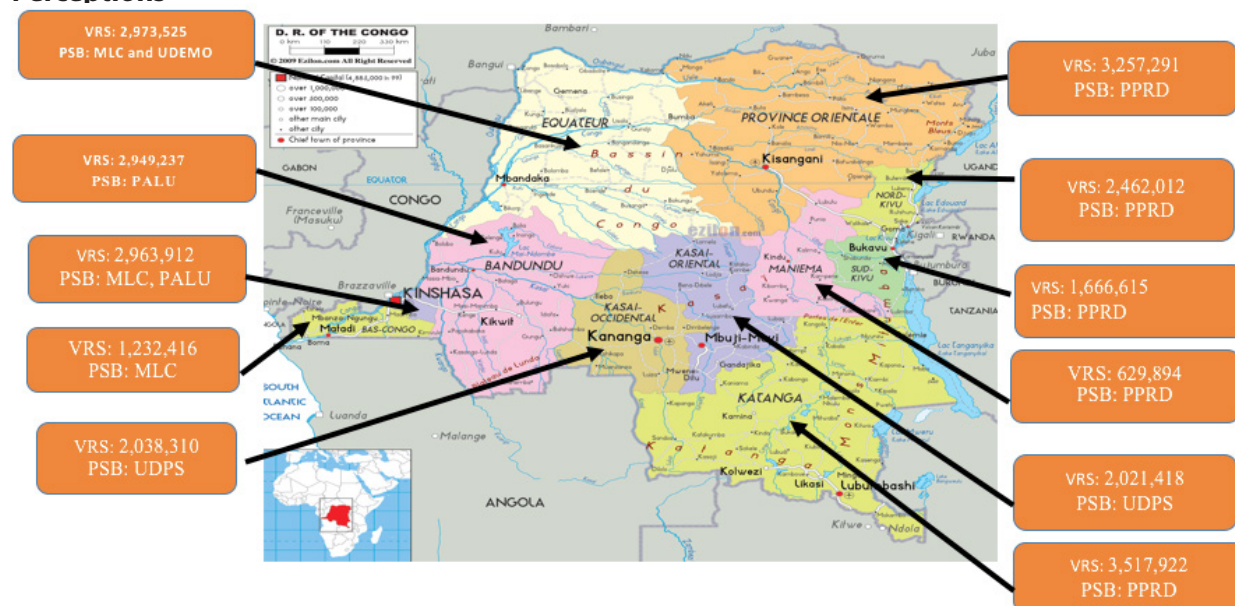
The DRC adopted an electoral system undergirded by the quest to promote both consociation and accountable governance which are palatable for political stability in societies emerging from conflicts. For the election of a president, the Constitution provided for a two-round system whereby a candidate, election through direct universal suffrage, must win at least 50%+1, failure to which he/she is subjected to a run-off with the second candidate. Unlike the transition constitution which provided for a 1+4 formula of one president plus four vice-presidents, the new Constitution stipulated for one executive president with delegated responsibilities to a prime minister appointed by the president.

Intrinsically, the presidential electoral system forced the candidates in elections to reach out to other

regions beyond their support base in order to guarantee their chances of winning the elections, whether in the first or second round. As in *Figure 2* below, the statistics of voter registration vis-à-vis the perceived geographical political support bases of main contestants (as in *Table 2* for list of *Presidential Candidates*) prior to 2006 polls shows that none of the candidates controlled an absolute majority and therefore needed votes from other regions in the country, *ceteris paribus*. The support bases varied from ethnic affiliation coached in patron-client relationships (DFID, 2006) to power-bases that were temporarily constituted when the country was compartmentalised during the civil war. Based on personal observation, I noted that in regions where the population became victims of the vagaries of rebel groups such as RCD in the Eastern parts of DRC, the local population developed strong resentment of such a group. Thus, controlling such regions militarily (as shown in *Figure 1*) did not directly translate to political control by offering more prospects for garnering superior votes during elections (see the *2006 provincial elections results under the appendices*).

The electoral system for legislative (national and provincial assemblies) elections combined open list proportional representation in multi-member electoral districts and Fast-Past-The-Post in single-member constituencies. The engineering of the system ensured the promotion of inclusivity and accountability in governance. The electoral system theoretically served as a conflict mitigation mechanism in governance as it sought to transform entrenched perceptions of political marginalisation.

Figure 2: Voter Registration Statistics (VRS) Verses Political Support Bases (PSB) – Pre - July 2006 Perceptions



Source of Voter Registration Data: CEI, 2006

Table 1: List of Presidential Candidates for July 2006 Elections

No	Name Of Candidate	Party	Abbrev.
1	Banyingela Kasonga	Alliance Des Paysans Et Ecologistes	APE
2	Jean-Pierre Bemba Gombo,	Mouvement De Libération Du Congo	MLC
3	Bonioma Kalokola Alou	Independent	
4	Eugène Diomi Ndongala	Démocratie Chrétienne	DC
5	Antoine Gizenga, Palu	Parti Lumumbiste Unifié	PALU
6	Bernard Emmanuel Kabatu Suila	Union Socialiste Et Libérale	USL
7	Joseph Kabila Kabange	Independent	
8	Gérard Kamanda Wa Kamanda	Front Commun Des Nationalistes	FCN
9	Oscar Kashala Lukumuenda	Union Pour La Reconstruction Du Congo	UREC
10	Norbert Likulia Bolongo	Independent	
11	Roger Lumbala	Rassemblement Des Congolais Démocrates Et Nationaliste	RCDN
12	Guy Patrice Lumumba	Independent	
13	Vincent De Paul Lunda Bululu	Rassemblement Des Forces Sociales Et Fédéralistes	RSF
14	Pierre Anatole Matusila Malungeni Ne Kongo	Independent	
15	Christophe Mboso N'kodia Pwanga,	Démocratie Convention Pour La République Et La	CRD
16	Antipas Mbusa Nyamwisi,	Forces Du Renouveau	
17	Mbuyi Kalala Alafuele	Rassemblement Pour Une Nouvelle Société	RNS
18	François Joseph Mobutu Nzanga Ngbangawe	Union Des Démocrates Mobutistes	UDEMOMO
19	Florentin Mokonda Bonza	Convention Des Démocrates	CDC
20	Timothée Moleka Nzulama	Union Du Peuple Pour La Paix Et L'agape	UPPA
21	Justine M'poyo Kasa-Vubu	Mouvement Des Démocrates	MD
22	Jonas Mukamba Kadiata Nzemba	Alliance Des Démocrates Congolais	ADECO
23	Paul Joseph Mukunguabila Mutombo, Independent		
24	Osée Muyima Ndjoko	Renouveau Pour Le Développement Et La Démocratie	R2D

25	Arthur Ngoma Z'ahidi,	Convention Du Camp De La Patrie	CCP
26	Jacob Niemba Souga,	Coalition Politique Des Chrétiens	CPC
27	Wivine N'landu Kavidi,	Union Pour La Défense De La République	UDR
28	Marie Thérèse Nlandu Mpolo Nene	Parti Pour La Paix Au Congo	PPC
29	Catherine Marthe Nzuzi Wa Mbombo	Mouvement Populaire De La Révolution Fait Privé	M P R / F A I T PRIVÉ
30	Joseph Olenghankoy Mukundji	Forces Novatrices Pour L'union Et La Solidarité	FONUS
31	Pierre Pay-Pay Wa Syakassighe	Coalition Des Démocrates Congolais	CODECO
32	Azarias Ruberwa Manywa,	Rassemblement Congolais Pour La Démocratie	RCD
33	Hassan Thassinda Uba Thassinda,	Congres Africain Des Démocrates	CAD

Source: CEI, 2006

As mentioned, the Global and Inclusive Accord provided for five institutions of support democracy. Out of those, the CEI and the HAM were the most involved with regard to the conduct of elections. In particular, the mandate of the CEI pertained all aspects of the management of the electoral process. Headed by a chairperson drawn from the civil society, the national structure of 21 members comprised representatives of the signatories to the Global and Inclusive Accord, of which 3 members were drawn from each component (ex-government, the political opposition, the RCD and the MLC) and 2 from the remaining entities that parties to the ICD. The appointment of the members took into account women's representation. At provincial levels, a similar formula was applied to the 8-member structure while more technical personnel were appointed at territorial level.

The structure and composition of the CEI promoted a general consensus within the political class which is critical to ensuring EMB's trust for a credible electoral process. However, as we will note, whilst ensuring inclusivity and trust in management of elections is critical for any elections, and most importantly, the "first elections" in a society emerging from civil war, the composition of the EMB also generated unintended consequences with spill-over effects on the broader political context of the elections. Overall, the electoral framework provided an adequate framework to promote a peaceful and democratic electoral outcome. However, broader overarching post-conflict contextual issues such as security and political dynamics percolated through the electoral process which contributed to electoral-related conflicts.

4.1.2 Surge of Violence

The July and October 2006 polls, generally hailed as peaceful and democratic (European Union 2007; EISA 2007; The Carter Center 2007), were not without incidences of conflicts which turned violent in some instances. Some conflicts were caused by operational issues while others were structural. The interaction between these factors impacted on the broader political environment. As it would be expected in a country emerging from conflict and with a history of limited electoral competition, the electoral actors variably responded to conflict situations through violent means.

The July 2006 polls which were generally peaceful faced a major threat on 20th August 2006 when the CEI was about to announce the election results in the capital city, Kinshasa. The pre-electoral process, in particular the campaign process was peaceful; according to the EISA Election Observation Mission, there was only one remarkable incidence of violence. The Observation Mission reported that the MLC

rally held in Kinshasa on 27th July 2006 to mark the end of the campaign was characterised by acts of violence and vandalism (EISA, 2007). Violence included the burning down of the HAM headquarters, ransacking the office of the National Observatory of Human Rights and a sanctuary associated with a cleric closely aligned to President Joseph Kabila (*Florent Kabongo, Interview: August 2016*).

At operational and technical levels, conflicts turned violent in cases related to delayed payments of CEI voter registration agents, most of whom were also later recruited as polling agents during the elections. Whilst the UNDP managed the funds for electoral operations including the payment of polling agents, the payment was erratic with some CEI officials allegedly embezzling the funds. Having been closely involved in the electoral process in DRC, I noted that accountability mechanisms in DRC were conspicuously weak and packed with corruption, a feature of institutional decay that is characteristic of most post-conflict states (OECD 2008; Khan 1995; Horowitz 2008; Flores and Nooruddin 2012). Most responses to issues were broadly a by-product of pressure caused by civil disorder, a tactic that was successfully appropriated by voter registration agents when the payment of their allowances was delayed. Whilst the agents were eventually paid, the erratic conduct of the CEI generated [unintended] consequences on the levers of conflict in the electoral process.

The arrears in payment of wages impacted on the accuracy of the biometric voters register as some voter registration agents confiscated CD-ROMs containing data, beside other technical problems encountered by the CEI in compiling the register. Barely a month before the July 2006 polls, the CEI reported that details of 1, 3 million registered voters were missing in the compiled register (CEI, 2006). Thus, the CEI compiled a separate list of omitted voters thus permitting them to participate in the polls. Whilst data analysis by The Carter Center Election Observation Mission (The Carter Center, 2007) showed that the omission of voters from the register was evenly distributed throughout the country without systematic political bias, the MLC, one of the main contenders in the electoral process instrumentalised this technical glitch to mount a basis for claims of electoral fraud, particularly during the run-off polls in October. Interestingly, the MLC leader Jean-Pierre Bemba did not file an official petition to claim that the first round of presidential election was fraudulent as he had already qualified for the run-off contest which offered a new prospect for winning elections.

The post-electoral phase centring the announcement of election results triggered significant violence in Kinshasa, which threatened to decimate the already precarious process. Dunning (2011) argues that political actors may use violent conflict and electoral contest as strategic complements, whereby political parties or candidates may instigate violence in part to advance electoral aims. Dunning further argues that distribution of electoral support tends to determine the pliability of the strategic complementarity between violence and electoral politics. On 20th August 2006, few hours before CEI announcement of the Presidential elections results, violence between the troops loyal to Bemba and Kabila broke out at the Canal Congo television station in Kinshasa, that belonged to Bemba. There was a shoot-out between Bemba's guard and the police who were later reinforced by Kabila's presidential guard, and a further counter-reaction by Bemba who deployed more troops to support him. Heavy fighting left 6 people dead and scores of casualties (ICG, 2006). In the ensuing tense episode, MONUC deployed its uniformed personnel to increase security around the premises of the CEI, to ensure an unfettered announcement of the election results. Kabila garnered 44,81% followed by Bemba who attained 20,03% in a race of 33 presidential candidates (CEI, 2006: see appendix 2 on presidential election results). On 21st August 2006, the presidential guard attacked for several hours the residence of Bemba at a time when he had been visited by the UN Special Representative of the Secretary General (SRSG) in the DRC and Head of MONUC, William Swing, and a group of ambassadors. This resulted in 23 civilians and soldiers killed (The Carter Center 2007; ICG 2006).

Kinshasa was a cockpit of post electoral violence. Kinshasa is contradictorily a predominantly opposition stronghold where Bemba enjoyed far much greater support than Kabila (*see 2006 election results in appendix 3*). During the first civil war (1996-1997) when Mobutu was deposed, it was the fall of Kinshasa in the hands of the AFDL guerrilla organisation that consummated the seizure of state power. In light of the geographical immensity of the country with limited infrastructural network, violence in

one region -particularly in enclaves, has a lesser degree of effect in other areas of the country, unless violence targets regime change, a specific social category such as an ethnic group, or strategic interests such mineral resources geographical spread in other regions. That said, violence occurring in Kinshasa tended to bear a greater propensity for gaining traction in the rest of the country as it is the political hotbed of the country which is predominantly opposition-controlled.

According to the ICG (2006:2), the violence perpetrated by the Kabila's presidential guard against Bemba in Kinshasa was a reaction to the disappointment that he would not secure an absolute majority. Early results indicated Kabila had a commanding lead in the East, where he enjoyed more support from the Swahili speaking people. However, later on, when results from the West -an opposition stronghold- came in, Kabila's lead dwindled, and the results in Kinshasa, where he garnered only 13% reduced his overall votes to below 50%. The violence in Kinshasa revealed the problematic of organising elections in a context of ongoing challenges of security sector reforms. According to Veronique, Planta and Giessmann (2016, page 7):

The first steps of a successful transformation involve, first, the group undertaking a verifiable shift in the means of struggle by demonstrating its willingness to abandon its capacity to conduct armed activities and demobilise its military apparatus; and; second, the group undergoes a shift in the arena of struggle by continuing its political engagement through active participation within the existing legal democratic framework i.e. by accepting to abide by the institutional 'rules of the game'.

At the time when the electoral process was underway, there was a parallel process of security sector reform being carried out under the auspices of MONUC and the government CONADER (*Commission Nationale de la Demobilisation et Reinsertion*). Some challenges in carrying out reforms were found in the security arrangement pact signed by the parties to the Global and Inclusive Accord that ended the civil war. According to the Memorandum II on Security and Army during the Transition signed on 29th June 2003, the two Vice-Presidents (Azarias Ruberwa, and Jean-Pierre Bemba, both former rebel leaders) under the 1+4 formula were allowed to have direct control of their 108 guards, who in effect did not undergo the transformation process from the guerrilla warfare ideology. The numerical strength of Kabila's presidential guard was not determined by the Memorandum. Efforts to regularise this under the defence forces bill tabled in parliament were frustrated by Kabila's camp (ICG, 2010). It is not surprising that the different polarities of chains of command created a volatile space in Kinshasa, where the civilian contestation for political power through the ballot was in some instances complemented with armed force. I observed elsewhere (Gerenge 2015:99) that:

... in post-conflict settings, ensuring cohesion in the army through maintaining loyalty is crucial, particularly, because the national army is often composed of former armed rebel groups who undergo a process of transformation through disarmament, demobilisation and reintegration. However, the process of deconstructing previous loyalties to former rebel leaders is complex and often replete with unintended consequences.

The Kinshasa post-electoral violence highlighted the problematic of transforming armed rebel groups to conventional political parties premised on civic ideology. De Zeeuw (2008) contends that structural challenges for emerging political parties (transforming from guerrilla organisations) tend to affect the growth, leadership and behaviour of such institutions, and ultimately affect their support to peaceful political change. It is in this light that the violent activities of the MLC political party can be understood, where the party manifested some past features of rebel group character.

4.1.3 Conflict Dynamics of the Presidential Run-Off Elections

The outcome of the July 2006 polls created new conflict dynamics for the October 2006 presidential run-off (held together with the elections for provincial assemblies). These dynamics permeated the subsequent electoral cycle as we shall note in the analysis of the conflict during the 2011 electoral

process. According to The Carter Center Election Observation Mission Report (2006:59):

... first round of presidential voting shows that 89 percent of voters in the eastern provinces voted for a candidate originating from the East (Kabila or others). Similarly, 85 percent of the voters in the western provinces cast their votes for a candidate from the West (Bemba, Gizenga, or Nzanga Mobutu).

This divide between West and East was predominantly ethnic, restructuring the country between the Lingala and Swahili speaking groups, representing Bemba (from Equator Province) and Kabila (from Katanga Province). The divide continued to shape the electoral politics and conflict dynamics of the subsequent electoral cycle. From personal observation during the campaigns for the run-off, ordinary people in the East peddled remarks that if Bemba won the polls the country should be divided in two: West and East, intimating secessionist ideas. However, conscious of the imperatives of such sentiments, both Kabila and Bemba promoted unifying and nationalistic rhetoric of peace and unity which were congenial to stability.

In terms of political strategy, Kabila coalesced support from candidates from the West who ranked third and fourth, as well as other lesser performing candidates in the July polls. These were, veteran politician and Secretary General of the *Parti Lumumbiste Unifié* (PALU), Antoine Gizenga from the western province of Bandundu, as well as the Mobutu's son, Joseph-François Nzanga, from Equateur, the same province as Bemba. Nzanga's support to Kabila was perceived as a betrayal to the people of Equator as this is the same province that Bemba comes from. A coalition was created by Kabila called *Alliance pour la Majorité Présidentielle* (AMP)² while another was created by Bemba dubbed as *Union pour la Nation* (UN). Given that Etienne Tshisekedi, the veteran opposition politician had boycotted the 2006 electoral process and asked his support base in the two provinces of Kasai not to participate in elections including the voters' registration, these two provinces became hotbeds for grabs by the two candidates. Despite boycott call by Tshisekedi, there were still voters who registered and participated in elections in the two Kasai provinces (see Figure 2 and Appendices of election results).

Although the period leading to the run-off did not experience widespread violent episodes, clashes were observed on 16th October 2006 in Lodja, Kasai Oriental Province, between pro-Kabila and pro-Bemba supporters, and an exchange of gunfire on 26th October 2006 (EISA, 2007). There was violent conflict between Bemba's militia and Joseph François Nzanga Mobutu's bodyguards in Gbadolite (capital of Equateur), resulting in 5 deaths and damages to a radio station belonging to Bemba (EISA, 2007).

While the October polls were generally peaceful, there was renewed post-electoral violence in Kinshasa during the publication of the results by the CEI, as was the case for the July elections between Bemba and Kabila supporters. Violence in Kinshasa begun on 11th November when the police dispersed Bemba's supporters in front of his radio station. The Carter Center (2007) reported Bemba's supporters armed with mortars, guns and pistols engaging in armed conflict with the police. MONUC Peacekeepers intervened to quell to situation. One representative of MLC in the nation bureau of the CEI refused to certify the results of the elections, a factor that is attributed the problematic of having political representatives in the leadership of the EMB. Although Bemba lodged a formal complaint about the outcome of elections, the Supreme Court of Justice ruled the basis of the petition as unfounded. The Court declared Kabila as winner with 58.05% while Bemba attained 41.95% (CEI, 2006). This declaration paved way for a peaceful transition in which Joseph Kabila was sworn in as President on 6th December 2006.

That said, it is important to underscore that the 2006 electoral process did not attain its logical conclusion with the holding of local elections. The holding of local elections remained very politicised issue as this was viewed by the Presidential Majority as potentially likely to alter local power bases. Indeed, in a country where the writ of the state is extremely limited within its territory and the political space is

highly contested, maintaining loyalty at the local level is of utmost importance. The conflict centring on non-holding of local elections was exported to the following 'electoral cycle' which convoluted with other emerging conflict dynamics characteristic of the second generation post-conflict elections in the DRC.

4.2 The 2011 Electoral-Related Conflict : Causalities, Dynamics and Geographical Spread

On 28th November 2011, the DRC held contested presidential and national assembly elections that were characterised by massive irregularities and violence. The political stalemate that ensued following the announcement of incumbent president Joseph Kabila as winner for a second and final term -as stipulated by the Constitution- embroiled the country into a protracted crisis that continued to haunt the country during the 2012-2016 electoral cycle. The electoral process of 2011 did not attain its logical conclusion as provincial assembly and local elections were not held. Thereby the crisis of governance infused with contestation over Kabila's perceived quest for a third term bid, in contravention of the constitution.

The "second generation" of post-conflict elections were an expression of a backlash in consideration of the gains made during 2006 general elections and 2005 constitutional referendum that restored constitutional and democratic order. While the rhetoric of peace and security shaped the politics of the "first elections", the second elections were bounded by the politics of 'peace' or governance dividends – extending beyond peace and stability, to include economic and social gains of the new political order. Even so, in post-conflict states, everything tends to be either a need or a necessity (Gerenge, 2014). Therefore, sustaining legitimacy based on government performance can be very challenging, given the existing weak governance structures, which makes it difficult for the first political regimes in post-conflict states to build legitimacy solely on the basis of performance (Menocal and Fritz 2007). The 2011 elections were a litmus test of popular perceptions of the dividends accrued from Joseph Kabila's post electoral promise contained in the *cinq chanters*, a 5-point public policy blue-print that sought to enhance socio-economic development through improvement of infrastructure, employment creation, education, electricity, water, and health. One respondent, explaining the causes of violent elections in 2011 stated that:

A large part of the population has been frustrated by the lack of progress of the living conditions. Those expectations were of course impossible to meet- even in the best cases (Hans Hoeboke, July 2016).

In order to grasp the factors that contributed to the violent elections in 2011, one would need to appreciate the post- 2006 dynamics and conditions that shaped the political landscape for 2011 by creating a fertile seedbed for botched electoral process. To begin, the 2006 electoral process did not attain its logical conclusion with the conduct of local elections. While local elections were to be held shortly after the 2006 general elections, their conduct was delayed by technical, logistical, financial and political reasons. The uncertainties surrounding the conduct of the local elections resulted in multiple slippage of the electoral calendar to the extent that it became imperative to organise the 2011 Presidential and National Assembly elections without incorporating local elections in the operational calendar.

Uncertainties had bred mistrust along the political divide of the country. Opposition parties perceived the delay of holding local polls as a ploy by the Kabila Government to sustain political control at the grass root level through directly appointed local leaders rather than those elected and directly accountable to the people. As envisioned in the new Constitution, the decentralisation process that was supposed to take place after the local elections was frozen as political power remained centralised in Kinshasa.

At institutional and technical level, the CEI was a transitional Election Management Body (EMB) which was to be replaced after the 2006 electoral process by *the Commission Electorale Nationale Indépendante*

(CENI) as stipulated by the new Constitution promulgated in early 2006. The idea was to move away from a politically crafted institution representing parties to the peace accord to a more permanent and professional EMB. The establishment of the CENI came to fruition on 28th February 2011, barely 9 months before the elections, clearly posing a conflict risk to the new commissioners who did not have prior electoral experience. The composition of the CENI was perceived to be more politically inclined to the ruling AMP, given that its chairperson Pastor Ngoy Mulunda who comes from Katanga province, same as Kabila, was known to be a founding members of PPRD in 2002, President Kabila's political party (*Alain Moulod and Mamadou Thiam, Interview: July 2016*).

Politicisation of the voter registration process had a bearing on the botched electoral process. Whilst it was expected that the CENI would update the biometric voter register, the EMB decided to carry out a costly fresh voter registration within a limited time. The elections were held in November 2011 with an overtly known but highly contested inaccurate register that was susceptible to manipulation. The lead-time for organising the polls was very limited following the appointment of the CENI on February 2011. The international assistance to the political and electoral process in 2011 was considerably diminished compared to the previous electoral cycle. On 30th June 2010, when the DRC was celebrating its 50th independence anniversary, the Presidential speech highlighted the need to safeguard the sovereignty of the country which marked a strategy shift of MONUC, thereby adopting the new name MONUSCO. In the same light, one respondent on this study remarked that:

In the eyes of the population, the UN presence had also further lost credibility as it was not capable to intervene in a meaningful way in the East during previous crises; the limited capacity and will for intervention would become very clear later with the brief take-over of Goma by the M23 (Hans Hoeboken, Interview: July 2016).

Consequently, the limited technical and operational support of MONUSCO bore negative effects on the elections considering that the CENI was newly appointed, with limited lead-time, whilst the overall political and security context remained as challenging as before.

4.2.1 Sowing Seeds of Conflict through Legal Reforms

One of the most dramatic dynamics on the 2011 electoral politics occurred when President Kabila orchestrated a constitutional alteration of the electoral system from the absolute majority two-round system to a First-Past-The-Post (FPTP) system in January 2011, several months before the polls. The former obliged candidates to reach out beyond their traditional political support in order to increase chances of winning and also promote consociational politics which is congenial to a divided political society. The FPTP reduced the numeral threshold of winning a presidency hence offered contestants the opportunity to focus on regional demographics, assuming the numbers in their traditional support bases were sufficient to secure victory. In this regard, for instance, victory through the new electoral system could be explored by the incumbent President Kabila through demographics in the massive support base of the Swahili speaking people eastern regions of Congo. 100% of the respondents to the interviews conducted in July and August 2016 opined that the change of the electoral system which was orchestrated by the Kabila camp was indeed based on the perceived understanding that they could not win an open electoral process orchestrated upon the change in the electoral playing field.

This change made the electoral contest fiercer than 2006. Kabila's limited support in the West of the country (predominantly Lingala speaking) had waned whilst his main support in the East was increasingly discontented as the people continued to fall prey of the vagaries of rebel movements (Mai-Mai, Raiya Mutomboki, Democratic Forces for the Liberation of Rwanda³ (FDLR), Lord's Resistance Army (LRA), the *Congrès national pour la défense du peuple* (NCDP, National Congress for the Defence of the People, a politico-military movement created in July 2006 by Laurent Nkunda), and Movement 23, an off-shoot of NCDP created following unsuccessful disarmament and reintegration into the national army. Some

3 Comprises mainly of Rwandan Hutu ex-genocidaires

respondents to this study stated that the Swahili speaking people in the East voted for Kabila with over 95% in 2006, and were disgruntled for not having gained from the anticipated 'peace dividends' yet they are located in the region with massive mineral resources.

4.2.2 Shift in Political Players

The 2006 electoral politics which followed the 1+4 power-sharing transitional formula were dominated by Kabila and Bemba. However, following the arrest of Jean Pierre Bemba by the International Criminal Court for crimes against humanity in 2008⁴, the MLC's political clout of 2006 was drastically impaired as Tshisekedi of the *Union pour la démocratie et le progrès social (UDPS)*, the veteran politician who had boycotted the 2006 elections, became the opposition's leading force (*Alain Moulod, Mamadou Thiam, Hamadi Diallo: Interview in July 2016*). The MLC only participated in National Assembly polls and did not field a presidential candidate in 2011.

Disgruntlement in the state of governance in the country was not only resident in the masses and political opposition but also extended to the elite within the Kabila camp. In reaction to this, Kabila created a new political alliance on 18th March 2011 as a vehicle for the 2011 electoral contest called the *Majorité Présidentielle (MP)*. This alliance was created from AMP of 2006 in order to get rid of dissident parties and strengthen the coalition. AMP supported President Kabila in the 2011 polls although he chose to contest as an independent candidate, as was the case in 2006.

A key Kabila ally, Vital Kamerhe who formed the *Union pour la Nation Congolaise (UNC)* political party, was one of the main victims of political purging. Kamerhe, a former Speaker of the National Assembly and political ally of Kabila from South Kivu, a Swahili speaking province in the Eastern Congo was widely viewed to have been the most critical force behind Kabila's victory in 2006. The two fell out of ranks when Kamerhe disagreed with Kabila following the decision to allow Rwandan military forces to enter DRC's territory to neutralize the FDLR in 2008. The Rwandese military presence in DRC increased Kabila's legitimacy problems among his supporters in the East. The high level of distrust of Rwandans by the local population was a result of atrocities committed during the civil war. For many, Kamerhe became the embodiment of grievances of the electorate in the Eastern DRC.

Other key actors who were also presidential candidates were Leon Kengo wa Dondo of Union of Forces for Change (UFC) and Zanga Mobutu of Union of Mobutu Democrats (UDEMO). Kengo wa Dondo supported Bemba during the 2006 run-off and decided to contest as a presidential candidate in 2011. Zanga Mobutu supported Kabila under the AMP but fell out of ranks with the President and joined the opposition as a presidential candidate in the 2011 contest.

The opposition attempts to field a single presidential candidate to compete against incumbent President Kabila, failed due to leadership struggles and dissension issues (*see table of presidential candidates below*).

Table 2: List of the 2011 Presidential election Candidates

No	Candidate	Party
1	Joseph Kabila	Independent
2	Étienne Tshisekedi	Union for Democracy and Social Progress (UDPS)
3	Vital Kamerhe	Union for the Congolese Nation (UCN)

4 These were crimes committed in the neighbouring Central African Republic during the civil war

4	Léon Kengo	Union of Forces of Change (UFC)
5	Antipas Mbusa	Independent
6	Nzanga Mobutu	Union of Mobutuist Democrats (UDEMO)
7	Jean Andeka	Alliance of Congolese Nationalist Believers (ANCC)
8	Adam Bombolé	Independent
9	François Nicéphore Kakese	Union for the Revival and the Development of Congo (URDC)
10	Josué Alex Mukendi	Independent
11	Oscar Kashala	Union for the Rebuilding of Congo (UREC)

Source: CENI, 2011

4.2.3 Surge of Violence

The 2011 campaign process had incidences of violence particularly in Kinshasa, the political hotbed of the country, as well as in Katanga and Kasaï provinces. The electoral conflicts in the two latter provinces revealed unsettled historical conflicts between the people of the Katanga (pro-Kabila) and Kasaï (pro-Tshisekedi) dating back to pre-independence. Three respondents to this study conceived the conflict to be coached in the dichotomous identity politics of *originaires* versus *non-originaires* (natives versus non-natives) of these two provinces. In highlighting the historical nature of the conflict which found its way in the electoral scene, some respondents to the study gave the following remarks:

The conflict between the people of Kasai and Katanga is rooted in the colonial period when the Belgians were sourcing for labour in the mines and found the Kasaïans to have relatively higher aptitude to work in the mines than native people in Katanga who were not as hard working. It is said that the workers drawn from Katanga liked getting drunk after payment of wages which negatively affected their work rate. (Florent Kabongo and André Kabunda: Interview, August 2016).

The historical nature of the conflict between the people of Kasai and Katanga was perpetuated in the post-conflict period to sustain political dominance of the elite hence ensuing that the people of the two regions were constantly in either latent or manifest conflict.

This inter-communal conflict resurfaced in 1991-1992 shortly after nominal multi-party democracy was introduced. Indeed, President Mobutu made a ploy to weaken Tshisekedi, the then Prime Minister, by crafting antagonism with the Governor of Katanga, Kyungu wa Kumwanza. This provoked the population to rise against Kasaïans with the nationalistic slogan “arise Katanga” and forced the thousands of Kasaïans to flee from Katanga (Florent Kabongo, Interview: August 2016).

In a twist of the electoral-related conflict in the post-electoral phase, the bone of contention was that the incumbent President Kabila fraudulently won the elections. He won by 48.95% while Etienne Tshisekedi got 33.32% (see Appendix 2 on presidential election results). The latter alongside all other opposition parties and candidates rejected the results. As reported by observers such as the *Ligue des Electeurs* (2012), and The Carter Center (2012), results of at least 4,875 polling stations were unaccounted for including 2,020 in Kinshasa which was an opposition stronghold. More so, in Kabila's stronghold Katanga province, the turnout was recorded at 100% in a remarkable number of polling stations out of which he garnered more than 95% of votes.

Despite the above flagrant irregularities, international election observation missions deployed to observe the polls were divided in their findings and conclusions. The Carter Center and the European

Union discredited the process while the African Union, SADC, COMESA, ICGLR and ECCAS declared the polls successful and democratic⁵. In an unsurprising move given the already underscored irregularities, Tshisekedi declared himself duly elected president. The CENI and the Supreme Court declared Kabila as the winner, and subsequently sworn in for the second term as President. Tshisekedi was put under house arrest and his supporters tear-gassed when they accompanied him to occupy the presidential palace. In the ensuing post-electoral crisis, the Minister of Interior ordered the suspension of mobile phone SMS communication as there were threats and calls for violence. In Mbuji-Mayi, the former Kasaï Occidental Province, the police closed the RTL radio station without notice or giving any explanation. Violent clashes erupted in the capital, Kinshasa, as well as other parts of the country which were opposition strongholds. According to Human Rights Watch (2011), by 22nd December 2011, at least 24 people had been killed.

Like *deja vu*, due to the political crisis that characterised the polls, the electoral cycle, as in 2006, did not attain its logical conclusion hence perpetuating the problem of legitimacy. While the presidential and national assembly elections were held as planned, these elections were not followed by the provincial assembly, gubernatorial, senatorial and local government elections as stipulated in the Constitution. The crisis of 2011 was again exported to the subsequent 'electoral cycle', and in effect, unresolved electoral-related conflicts were transferred from one cycle to another.

At the time of writing, the DRC had not held its third post-conflict general elections which were scheduled for November 2016. As a result, the legitimacy of all elective political institutions in the country are not currently predicated on popular will, which is a key tenet of democracy. Due to the prevailing political stalemate as result of failure to hold elections, political power is now accessed through negotiation by various political actors, a process that has been replete with unintended consequences including newly convoluted crises.

5. Mechanisms for Management of Electoral Related Conflicts

Elections are intrinsically conflict-ridden, whether in ordinary or post-conflict contexts. These calls for institutionalised mechanisms for managing the conflicts that may arise throughout the electoral cycle. The DRC security context in which the electoral processes of 2006 and 2011 took place made international assistance necessary to ensure an early warning conflict prevention and management mechanisms. At national level, the composition of the CEI and its deliberative and decision-making nature promoted consensus building albeit at times, their capacity to resolve conflicts was negatively impacted by narrow interests of its members who represented different political entities. During the 2006 electoral process, the CEI with the support of the international partners established a forum of political parties which promoted consultative decision making on key electoral issues. It served as a platform for resolving inter-party disputes. Whilst the forum resolved a number of inter-party conflicts -by adopting a code of conduct for parties-, the broader political and security environment bore overriding weight to the extent that certain conflicts necessitated high level diplomacy.

Besides the forum, the CEI established Conflict Management Panels (CMPs). 3300 mediators drawn from the community were deployed to various parts of the country through the support of EISA, in order to promote peaceful management of disputes related to the electoral process. However, disputes that related to violation of the law were not dealt with the CMPs as these fell within the remit of the courts. The importance of the CMPs cannot be underestimated as they enabled the CEI to focus on the pressing operational issues of organising the elections. EISA supported the CENI in 2011 to deploy CMPs, albeit in limited manner. The Supreme Court of Justice was mandated to arbitrate any dispute arising from the results and finally responsible for declaring them as final. The neutrality of the Court was contested

5 Joint statement by AU, SADC, ICGLR, COMESA and ECCAS <http://www.polity.org.za/article/joint-statement-by-the-au-sadc-eccas-icglr-and-comesa-on-the-general-elections-in-the-democratic-republic-of-congo-30112011-2011-11-30>; The Carter Center observation mission report https://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/drc-112811-elections-final-rpt.pdf; EU <http://mg.co.za/article/2011-12-14-eu-discounts-chaotic-drc-election-results> Accessed on 8 August 2016.

both in 2006 and 2011 as the judges composing it were appointees of President Kabila who enjoyed a majority in the transitional Parliament and in the Parliament elected in 2006. Distrust in the Court opened to violence as an alternative instrument for pursuing the goal of seeking political power, both in 2006 and 2011.

At diplomatic level, the good offices of the UN SRSO assisted in resolving conflicts at high level, between various candidates in the elections. In 2006, the *Comité International d'Appui à la Transition* (CIAT) -which was a creation of the peace accord-, was involved in preventive diplomacy in the electoral process. The CIAT comprised representatives of the five permanent members of the UNSC, MONUC, the EU, the AU, Angola, Belgium, Canada, Gabon, South Africa and Zambia. A complementary UN and AU-endorsed *Comité International des Sages* (CIS) was formed in 2006 to support diplomatic initiatives for preventing and managing electoral conflicts (Atwood, 2012). The CIS was made of African personalities, chaired by Joaquin Chissano, former president of Mozambique, and comprised ex-prime minister of Benin, Nicephore Soglo, the former Senegalese Prime Minister Madior Boye, and Judge Lewis Makame, president of the National Electoral Commission of Tanzania. Both CIAT and CIS played a key role in resolving the Kinshasa violence in 2006 and helped persuade Bemba to cede defeat, although he later refused to integrate his militia into the army (Atwood, 2012). Before the 2011 polls, there were clear signals that the electoral process was going to end in the potentially deadly stand-off described. In order to promote a peace, African Union Panel of the Wise, COMESA Committee of Elders, and SADC Electoral Advisory Council were involved in preventive diplomacy activities in October and November 2011 (AU Panel of the Wise, 2011). They met with key political stakeholders in a bid to encourage them to resolve any disputes related to the electoral process peacefully.

Besides, a National Mediation Commission of the Electoral Process (CNMPE), tasked to resolve election-related conflicts in DRC was established on 18th November 2011, barely one week before the polls. CNMPE was established under the aegis of MONUSCO and CENI and comprised 7 members drawn from the civil society and religious groups. The CNMPE was hailed as a home-grown solution to the prevailing challenges, as it consisted of only Congolese members. It ensures permanent dialogue among electoral stakeholders and helps to resolve conflicts that may arise. As the events in 2011 indicated, none of the above institutions were able to adequately quell the surging violence that decimated the loose political fabric in the country.

In 2016, as noted earlier, given the political impasse brought about by the failure of the DRC to hold elections to enable peaceful political change, the African Union deployed H.E Edem Kodjo, former Prime Minister of Togo and former OAU Secretary General to facilitate a political dialogue between the Government and Opposition in order to find a political settlement on the crisis. The African Union-brokered political agreement of 18 October 2016 was signed by some members of the *Rassemblement* (the main opposition platform) but boycotted by the Etienne Tshisekedi⁶ hence putting the political deal in peril. The political agreement provided for the holding of elections in April 2018 and the creation of a transitional government made up of both the Kabila political affiliation and the opposition. Given that Kabila's presidential term was effectively ending on 19 December 2016, a new transitional Government was constituted with Kabila as President and Prime Minister nominated from the opposition. However, the crisis subsisted as the political pact did not enjoy legitimacy of all main political actors. Subsequently, a more encompassing political dialogue was mediated by the Conférence Episcopale Nationale du Congo (CENCO) which successfully brokered an agreement that was signed on 31 December 2016 by the Government and the opposition, including the Tshisekedi camp. Among key provisions, the CENCO agreement provided for the holding of elections in December 2017 and a transitional coalition government. It also proscribed President Kabila from contesting in the elections.

Arguably, the Kodjo agreement and the CENCO agreement that superseded created unintended

⁶ The veteran politician passed away in February 2017

consequences for political actors across the political spectrum. Those who were poised to benefit from the Kodjo political deal were at odds with the beneficiaries of the CENCO agreement as the government formed in the aftermath of the Kodjo political deal was replaced by the CENCO-stipulated government. At the heart of the simmering tensions is that both political deals had temporarily offered rare opportunities (outside elections) for accessing to political power.

6. Conclusions and Recommendations

The electoral conflicts in the DRC demonstrated the distinctive challenges of conducting elections in a post-conflict context. This research shows how conflict dynamics of first cycle of elections differ from those of second cycle. The first cycle of elections in 2006 faced challenges of security characteristic of the immediate post conflict context, where transforming rebel actors to civilian political actors is a daunting task. This study has also shown that unresolved conflict dynamics in the first cycle of elections tend to be exported in the next electoral cycle, which renders the arena for contestations for political power a volatile seedbed. Volatility is compounded by the issue-based nature of electoral politics characteristic of the second-cycle of post conflict elections, where a high premium is placed on the quest for 'peace' or governance dividends that include social and economic returns of the new political order. The DRC has demonstrated a case of inconclusive [post-civil war] electoral cycles where conflicts mutate from one cycle to another in a context of distinct conflict dynamics.

We have noted that mechanisms for established in resolving electoral-related conflicts in the DRC had varied success. While conflict management mechanisms in 2006 were largely successful due to strong international support, local mechanisms failed in 2011 were unsuccessful due to the high level of distrust that prevailed within the Congolese body politic. We have also noted that efforts to resolve the political impasse in the third electoral cycle, brought about by previously inconclusive electoral cycles and convoluted with other dynamics has resulted to political settlements that have generated unintended consequences. In light of the foregoing, future policy and programming on electoral-related conflict interventions should take into account the following:

- The phenomenon of inconclusive electoral cycles and its bearing on electoral-related conflicts requires more attention. Further comparative research should be carried out to examine the problematic of electoral-related conflicts within the prism of inconclusive electoral cycles in order to better understand the phenomenon in other post-conflict as well as ordinary political contexts;
- Innovative interventions should be designing, combining technical, political and diplomatic leverages in order to ensure that electoral cycles attain logical conclusions to minimize resultant conflict mutations into new cycles.
- Policy decisions on whether to adopt exclusively or combine local and external mechanisms for resolving election-related conflicts needs to be carefully examined in light of prevailing contextual nuances of the country; and
- External electoral support after first post conflict elections should be sustained to the second cycle in order to consolidate gains as evidence suggests that drastically reduced support generates unintended backlash effects.
- Future research should attempt to focus on increasing understanding on how political actors such political parties in post-conflict electoral processes mutate to become guerrilla actors and how this process can sustainably be mitigated through institutional development;
- Attempt should be made in generating new knowledge on the use of electoral violence as strategic complement in post-conflict contexts in order to develop appropriate mitigation and transformational mechanisms;
- Second-generation elections remain as critical as first-generation elections in the after conflict and therefore necessitate similar attention by the international community.
- Long term institutional capacity building of EMBs and other actors in the electoral process is crucial for sustainable electoral processes
- It is crucial to understand the historical dynamics ("historical conflicts") of a country and how

they are mobilised by political actors to impact on electoral competitions. This helps in designing appropriate response mechanisms.

Appendices

Appendix 1: Results of the First and Second Round of Presidential Elections in DRC, 2006

Candidate (Party) [Coalition]	First Round		Second Round	
	Number of Votes	% of Votes	Number of Votes	% of Votes
Joseph Kabila Kabange	7,590,485	44.81%	9,436,779	58.05%
Jean-Pierre Bemba Gombo (MLC)	3,392,592	20.03%	6,819,822	41.95%
Antoine Gizenga (PALU)	2,211,280	13.06%	-	-
François Joseph Mobutu Nzanga Ngangawe (UDEMO)	808,397	4.77%	-	-
Oscar Kashala Lukumuenda (UREC)	585,410	3.46%	-	-
Azarias Ruberwa Manywa (RCD)	285,641	1.69%	-	-
Pierre Pay-Pay wa Syakassighe (DCF-COFEDEC) [CODECO]	267,749	1.58%	-	-
Vincent de Paul Lunda Bululu (RSF)	237,257	1.40%	-	-
Joseph Olenghankoy Mukundji (FONUS)	102,186	0.60%	-	-
Pierre Anatole Matusila Malungeni Ne Kongo	99,408	0.59%	-	-
Antipas Mbusa Nyamwisi (FR)	96,503	0.57%	-	-
Bernard Emmanuel Kabatu Suila (USL)	86,143	0.51%	-	-
Eugène Diomi Ndongala (DC)	85,897	0.51%	-	-
Kasonga Banyingela (APE)	82,045	0.48%	-	-
Christophe Mboso N'Kodia Pwanga (CRD)	78,983	0.47%	-	-
Norbert Likulia Bolongo	77,851	0.46%	-	-
Roger Lumbala (RCDN)	75,644	0.45%	-	-
Justine M'Poyo Kasa-Vubu (MD)	75,065	0.44%	-	-
Guy Patrice Lumumba	71,699	0.42%	-	-
Cathérine Marthe Nzuzi wa Mbombo (MPR-Fait Privé)	65,188	0.38%	-	-
Alou Bonioma Kalokola	63,692	0.38%	-	-
Paul Joseph Mukungubila Mutombo	59,228	0.35%	-	-
Arthur Z'ahidi Ngoma (CP)	57,277	0.34%	-	-
Wivine N'Landu Kavidi (UDR)	54,482	0.32%	-	-
Gérard Kamanda wa Kamanda (FCN-Me Kamanda)	52,084	0.31%	-	-
Florentin Mokonda Bonza (CDC)	49,292	0.29%	-	-
Alafuele Mbuyi Kalala (RNS)	44,030	0.26%	-	-
Jacob Niemba Souga (CPC)	40,188	0.24%	-	-
Jonas Mukamba Kadiata Nzemba (ADECO)	39,973	0.24%	-	-
Marie-Thérèse Nlandu Mpolo Nene (CONGO-PAX)	35,587	0.21%	-	-

Osée Muyima Ndjoko (R2D)	25,198	0.15%	-	-
Hassan Thassinda Uba Thassinda (CAD)	23,327	0.14%	-	-
Timothée Moleka Nzulama (UPPA)	17,753	0.10%	-	-
Voter Turn Out	70.5%		65.4%	

Source: CEI, 2006

Appendix 2: Results of the Second Round of Presidential Elections by Province, October 2006

Province	Registered voters	Voters	Voter Turnout %	No of votes		% of votes	
				Bemba	Kabila	Bemba	Kabila
Kinshasa	2,913,313	1,681,250	57.71	1,122,231	528,045	68.00	32.00
Bas Congo	1,227,775	633,463	51.59	452,409	157,809	74.14	25.86
Bandundu	2,925,126	1,480,921	50.63	877,560	571,840	60.55	39.45
Equateur	2,923,680	2,468,917	84.45	2,372,326	69,563	97.15	2.85
Province Orientale	3,241,470	2,069,325	63.84	406,532	1,574,552	20.52	79.48
North Kivu	2,451,475	1,888,975	77.05	65,373	1,776,660	3.55	96.45
South Kivu	1,651,262	1,388,001	84.06	23,115	1,340,854	1.69	98.31
Maniema	626,327	502,487	80.23	8,296	488,410	1.67	98.33
Katanga	3,473,936	2,625,458	75.59	161,378	2,424,975	6.24	93.76
Kasai Oriental	1,975,430	842,926	42.67	556,088	268,796	67.41	32.59
Kasai Occidental	2,010,405	1,033,756	51.42	774,514	235,275	76.70	23.30
Total	25,420,199	16,615,479	65.36	6,819,822	9,436,779	41.95	58.05

Source: CEI, 2006

Appendix 3 : Presidential Election Results of November 2011

Candidate (Party)	Number Votes	of	% of Votes
Joseph Kabila Kabange	8,880,944		48.95%
Étienne Tshisekedi wa Mulumba (UDPS-Tshisekedi)	5,864,775		32.33%
Vital Kamerhe Lwa-Kanyiginyi (UNC)	1,403,372		7.74%
Léon Kengo wa Dondo (UFC)	898,362		4.95%
Antipas Mbusa Nyamwisi	311,787		1.72%
François Joseph Mobutu Nzanga Ngangawe (UDEMO)	285,273		1.57%
Jean Andeka Djamba (ANCC)	128,820		0.71%
Adam Bombolé Intole	126,623		0.70%
François Nicéphore Kakese Malela (URDC)	92,737		0.51%
Josué Alex Mukendi Kamama	78,151		0.43%
Oscar Kashala Lukumuenda (UREC)	72,260		0.40%
Voter Turn Out	59.1%		

Source: CENI, 2011

Lesotho

Author : Victor Shale



Lesotho

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Introduction

Lesotho has experienced pervasive crises resulting from electoral-related conflicts since its independence from Britain in 1966. These crises have mainly been in the form of latent and manifest violence especially between and within political parties. There has also been conflicts between political parties and the security agencies as well as amongst different security agencies particularly the army and the police. Consequently, Lesotho has since its attainment of independence experienced a mixed bag of democratic and non-democratic regimes which have been characterized by varying degrees of political upheavals. Like many countries on the continent, Lesotho's elections are regular and the country has to date conducted nine (9) general elections in 1965, 1970, 1985, 1993, 1998, 2002, 2007, 2012 and 2015. Despite this, scholarship on electoral democracy in Lesotho suggests that almost all these elections have been more of a liability than assets (Weisfelder 1999; Makoa 1996; Matlosa 2003; Matlosa 2008; Molomo 2010). It has been argued elsewhere that:

The degree and depth of the democracy project in Africa should be judged not merely by the regularity of elections but by contributions such elections make to democracy. Are they an asset or a liability? How are they managed? Is the management of elections helping in the resolution of disputes and conflicts or creating post-election crises? Elections are an asset to democracy if they are peaceful and do not lead to post-election violence and instability which threaten peace and security. They are a liability when they are marred by violent conflict and, in the process trigger political and social instability (Matlosa, Khadiagala and Shale 2010).

A look at the first post-independence elections in 1970 shows that they yielded conflict and political instability and also marked the beginning of a conflictual electoral history in the country. These elections were nullified by the then Prime Minister and leader of the Basotho National Party (BNP), Leabua Jonathan having discovered from the preliminary constituencies results that his party was losing elections to the opposition Basutoland Congress party (BCP) leader Ntsu Mokhehle. The nullification was followed by the suspension of the constitution and violent use of the military against opposition voices hence Jonathan is seen by some as the "author of political crisis" in Lesotho (Khaketla 1971; Makoa 1996; Leon Commission 2000; Shale 2005).

This chapter therefore investigates the causes and consequences of electoral-related violence and conflict in Lesotho. The spate of literature on elections democracy and governance in Lesotho can be divided into two categories. On the one hand, there is literature which deals with general political context from independence to the early 1990's. On the other hand, there is literature, which deals with the post 1993 elections and governance matters. The problem is that in the former category few writings actually touch on the issue of electoral-related violence and they are generally outdated (Gill 1993; Machobane 1990; Weisfelder 1972, 1979 & 1999). The other category also does not necessarily deal specifically with issues of electoral-related violence. It only touches on elections and violence tangentially and it is generally ahistorical (Southall and Petlane 1995; Makoa 1996; Matlosa 1999; Matlosa 2003; Matlosa 2005; Machobane 2001; Makoa 2004; Likoti, 2005). A major contribution of this study is therefore that it serves as a bridge between these two categories of literature. Thus, it is the first piece dedicated entirely on electoral-related violence in Lesotho covering the period before independence to 2016. Focusing on three main clusters namely, electoral violence and electoral administration, gender and electoral violence and electoral violence and media, the study raises critical questions such as: What are the causes of electoral violence in Lesotho? What is the effect of this electoral violence on democracy? Most fundamentally, what role do various actors such as the media, civil society, political parties, parliament and security agencies play in contributing to or seeking solutions for electoral-related violence? This study is timely and relevant as its findings can inform some of the reforms mooted by electoral

stakeholders in Lesotho following the recent election and security related disputes.

Structure of the chapter

This chapter is divided into five main sections. The first section provides the overall context within which electoral-related violence takes place in Lesotho. Other than this introduction, the section provides the methodology adopted for the study as well as the limitation of the study. This is followed by the contextual overview of electoral-related violence, which winds up with identification of the drivers of electoral-related violence in Lesotho. The second section maps out the frequency and geographic spread of electoral-related violence in Lesotho. The genesis of political and electoral violence in Lesotho is briefly provided from the time of independence to present day. The third section of the report discusses electoral administration as well as the legal and institutional mechanisms for addressing electoral-related violence. The fourth section looks at the key factors for preventing electoral-related violence and suggests ways of strengthening early warning mechanisms. The fifth and final section provides a conclusion and makes recommendations to future activities and initiatives in mitigating electoral-related violence.

The Conceptual and Contextual Overview of Election-Related violence in Lesotho

Conceptual Entry Point

It is axiomatic that elections take place within a given political, social and cultural context. According to Elklitt (2007:80), the context has a strong impact on how elections are perceived by political actors including the voters and how they are administered. The context also shapes the way in which the contestants in an election react to the election outcome. Within this understanding, this study adopts the UNDP (2009:4) conceptualization of electoral-related violence as a physical violence which is also a subtype of political violence and distinguishable by its proximity to the elections. This UNDP conceptual proposition is quoted in detail below. It notes that:

...electoral violence includes acts, such as assassination of opponents or spontaneous fistcuffs between rival groups of supporters—and threats, coercion, and intimidation of opponents, voters, or election officials. Threat and intimidation are forms of coercion that are just as powerful as acts of violence can be. Indeed, one purpose of acts of broader intimidation... is to induce fear and to intimidate (e.g., to suppress mobilization or voting by that group). Violent acts can be targeted against people or things, such as the targeting of communities or candidates or the deliberate destruction of campaign materials, vehicles, offices, or ballot boxes. How the election process and administration is designed, managed, and implemented has a strong bearing on electoral violence. Those elections considered to be free, fair, and transparent are less likely to experience electoral violence than those where allegations of mismanagement or deliberate cheating are prevalent.

It is against this conceptual understanding that the next section now looks into the context within which electoral-related violence obtains in Lesotho.

Contextual Overview

Lesotho is a parliamentary, constitutional monarchy akin to the Westminster system of governance. It has a bicameral parliament composed of the traditional and the modern institutions. On the one hand, there is the Senate (the Upper House) which consists of twenty two (22) Principal Chiefs and eleven

other people appointed by the King on the advice of the of the Council of State.¹ There is also the National Assembly (NA) (Lower House) comprising democratically elected representatives. Majority of the members of the executive are appointed from members of the National Assembly and a few other executive members are elected from the Senate—a matter which has contributed to electoral tensions in that those appointees are often people who would have lost elections in their constituencies (Shale 2008:172). The appointments of individuals to the Senate has always been abused by the political elite either as an insurance for poor election performers or simply as a mechanism to ensure maximum representation of the ruling party. Take for instance the composition of the Legislative Council following the elections in 1960. According to Gill (1993:213), this Council was composed of 50% elected District Council Delegates, 22 Principal Chiefs as well as the 50% appointed delegates. Although the Basutoland Congress Party (BCP) had claimed landslide victory in the District Council elections.

It did not enjoy a majority in the Legislative Council since the appointed members sided with the Basotho National Party and the Marematlou Party (MTP) against it. The next five years saw each of the parties sabotaging the efforts of the BCP, both in the District Councils and the Legislative Council. The BCP victory, therefore, brought frustration and not the fruits of success.

The legislative powers are vested in the National Assembly while the Senate can only delay and review the bills. But, the Constitution of Lesotho (1993) gives the Senate at least thirty days to pass the bill once received from the National Assembly. In the case of an appropriation bill, the Senate has to pass the bill “by the end of the day after the day on which it was sent to the Senate” (Section 80.1). If the National Assembly does not agree with the amendments from the Senate, the National Assembly’s resolution prevails. Just like the 1960’s scenario, the 11 appointed members of the Senate have tended to side with the governing party representatives in the Lower House (National Assembly) instead of taking the majority views of their colleagues in the Senate. The Prime Minister is such a powerful political figure that he/she can sign a bill into law even if the king refuses to do so. The foregoing demonstrates that power in Lesotho lies with the Prime Minister and the Executive and not with the monarchy and the traditional leaders. This observation is important as it partly explains the conduct of the political elites in contesting for and using this power as findings of this study will show.

There are three distinct historical and political epochs which can be identified since Lesotho’s independence. These are multiparty democracy (1965-1970) and one party state (1970-1986) both under the BNP government; military dictatorship (1986-1993); multiparty democracy (1993-date) under the BCP, Lesotho Congress for Democracy (LCD) and Democratic Congress (DC) on the one hand and under coalition governments on the other. It follows therefore that Lesotho did not hold democratic elections for twenty-three years (1970-1993) during the one party and military rules. According to one respondent:

The 1970–85 period was a period during which inter-party (BCP/BNP) tense relations had reached their peak. This was a period of unconstitutional rule which witnessed two major events namely, the establishment of the Police Mobile Unit (PMU), Village Vigilante groups (Lebotho la Khotso), The Lesotho Youth Service (LYS) by the BNP government on the one hand and the formation of the Lesotho Liberation Army (LLA) by the BCP (in exile) on the other. The former formations were intended to suppress and persecute BCP followers while the latter formation was to carry out insurgencies against the BNP government. These developments worsened the relations between Lesotho’s biggest parties, BCP and BNP {Interview Sofonea Shale, May 2016}.

¹ The Council of State consists of the Prime Minister, the Speaker of the National Assembly, two Judges of the High Court or Court of Appeal, Attorney General, Commander of the Defence Force, Commissioner of Police, One Principal Chief, two Members of Parliament, three people appointed by the King by virtue of their expertise and one representative of the Law Society of Lesotho.

Following the return to multiparty democracy in 1993, the country experienced a dominant party system which contributed to political tensions as those left out of the “table” after the elections tended to resort to violent means. Lesotho elections have since 2012 not produced a clear winner and therefore ushered in a new era of coalition politics. The inconclusive 2012 elections produced an unprecedented phenomenon of a hung-parliament which no precedence in law. Although this development caught the political elite unprepared, civil society had predicted this scenario and even organized a scenario planning conference in Maseru where academics and practitioners were invited to make contributions. Based on the available information from the organizers, political party leaders did not send high profile party representatives to attend. The only parties which were represented by their leaders were the BNP and PFD. However, the coalition government which was formed by the ABC, BNP and LCD drew pointers from the outcome of the workshop. The hung parliament outcome forced parties to negotiate pacts in order to form government. This produced the country’s first coalition government made up of three parties namely, the All Basotho Convention (ABC), LCD and BNP coalition government and governed from 2012-2015. This maiden coalition did not complete its first term in office and was replaced by a bigger coalition of seven (7) parties led by the DC following the February 2015 snap elections.²

The three historical eras are clearly distinguishable by the different national flags which have been introduced twenty years apart of each other during the four decades of the county’s independence as can be seen in figure 1 below.

Figure 1: Lesotho National Flags 1966-2016



Source: Shale 2012

The change of national flags by the different regimes in Lesotho has never been interrogated in depth in terms of its value addition to national cohesion, cost implications to the economy and the image or branding of the country to the outside world. There is no evidence which suggests that the changes in the national insignia had any connection with the people’s preferences or based on any changes in societal values and beliefs. The changes were driven largely by the incoming regime’s dislike of the outgoing regime and therefore, rather than being a national symbol, a national flag has been treated as

² The coalition was led by the DC and consisted of the LCD, BCP, Popular Front for Democracy (PFD), National Independence Party (NIP), Marematlou Freedom Party (MFP) and the Lesotho People’s Congress (LPC)

a symbol of the regime in power hence it becomes the first casualty of regime changes. Only Lesotho, the Democratic Republic of Congo (DRC) and Malawi in the SADC region have changed national flags three times in the past forty years. A look at these three countries also shows that they have experienced political instability and violent election related conflicts albeit at different scales.

The yawning gap between the state and society values in Lesotho is one of the contributing factors to the country's instability. According to one of the respondents, Lesotho of today is characterized by chronic societal anger and this in itself is a recipe for political violence whether structural or direct. She laments that:

... Our society seems to have a non-descript value system. The current value system architecture is a mix of imported and alien values and indigenous values. Naked political ambitions, an ignorant electorate, acerbic and personalised tone of political debates are a characteristic features of Lesotho's political culture {Interview: Mohlabula-Nokana, May 2016}.

The disconnect between values embraced by the political elite and those of the citizens has been authoritatively dealt with by Francis Makoa (1996:3) who, without necessarily advocating for the Gramscian state where there is a dominant thought guiding society in terms of morality, customs religion and political principles and all social relations, argues that “while the Basotho nation-state possesses the monopoly of force necessary to control its citizens, it nevertheless lacks the capacity to generate the national consensus essential for political stability and social harmony”. Whereas Makoa posits that the Gramscian state is not necessarily without contestation, Mohlabula-Nokana's quote above actually suggests that indeed the Lesotho elite's over reliance on mere force without the requisite social capital has contributed to the endless violent conflict in Lesotho. A similar observation was made in the case of the ensuing conflict in South Sudan. Although the South Sudanese conflict is ethnic based, Gerenge (2015:86-88) explains how focus on the supremacy of the Dinka and the Nuer ethnic groups by the political elite has compromised South Sudan's opportunity for state building and inculcation of social capital. Similarly, as will be shown in the following sections of this report, the triple jeopardy of personalisation of Lesotho politics, politicization of the military and militarization of politics against the background of a history long dichotomization of the political space along the congress and nationalist parties has further polarized the nation rather than create space for consensus and national cohesion.

Section I - Context and Drivers of Electoral Violence in Lesotho

This chapter finds that Lesotho shares similar experiences with many other countries with regard to triggers of electoral-related violence. It notes that over the years, election outcomes in Lesotho have been contested on the basis of alleged irregularities in the voter registration processes, inadequacies of the electoral system; partiality of the election management body, lack of campaign and party funding, political intolerance, abuse of state resources and politicised state institutions among others. Yet, the study also finds that while these drivers cannot be overlooked, there are often underlying socio-economic and political dynamics which are the real sources of the problem. Politically, the study finds that political tensions in Lesotho have never really been addressed since independence and there has been a snowball effect from one political tension to the other. For instance, unresolved pre-election issues of 1965 led to the 1970 post-election tensions and violence. Similarly, the post-military rule political differences between the BNP which had ruled for 21 years and BCP which had been exiled from 1970 as well as other parties were glossed over leading to violence. According to one of the respondents, given the hostile political history between the main parties:

The renaissance of democratic rule was to happen under this hostile environment. Realizing this and

cognisant of the danger that this would post to the contemplated return to democracy, an attempt was made by the civil society fraternity in 1991 to convene a National Conference for a “negotiated” settlement to the 1970-85 hostilities. Both the BCP and the BNP snubbed this initiative because they anticipated to win the democratic elections planned later for 1992. They hoped to address the issues on their own terms. The BCP emerged victorious in the 1993 poll but two major events which destabilised it happened soon after the 1993 poll; namely, Factional fighting within the army and the assassination of the Deputy Prime Minister, Selometsi Baholo {Interview Motsamai, June 2016}.

A similar view is held by another respondent who submitted that although conflicts surface during the post-election period, they are nothing but a manifestation of the unattended (pre-election) tensions. She indicated that:

Usually these are not attended to because the contesting parties expect to emerge victorious at the end of the race. When they lose, they start to raise issues that they should have raised before the elections. A classic example is the general elections of 1993 and of 2007. The legal framework is conducive for a peaceful electoral democracy {Interview: Mohlabula, June 2016}.

Failure by political leaders to address political differences also had a ripple effect on the alignment or re-alignment of the politicized state institutions including the security agencies. This largely triggered the 1994 intra-army battle and led to the involvement of the security agencies in the subsequent electoral-related conflicts in 1998, 2007, 2012 and 2015. It is also evident that since independence, whether directly or otherwise, political differences and dissenting voices have been punished by exclusion or violence including extra-judicial killings. The 1964 pre-election political killings of Rothe and the 1967 post-election skirmishes of Thaba-bosiu as well as the high profile killings of Koenyama Chakela in the 1980s, Victor Moloi in the early 1990s, Desmond Sexishe, Vincent Makhele and their wives in 1986, Deputy Prime Minister Selometsi Baholo in 1994, Selala Sekhonyana in 2006 and Sello Machakela in 2012, Thabiso T'sosane and Lieutenant General Maaparankoe Mahao in 2015 are some of the cases in point (Khaketla 1971; Sunday Express 2013; Lelyveld (New York Times) 1983, 1994; Washington Post 1986; Ambrose 1995). The unfinished national reconciliation and healing business is therefore a driver of electoral-related violence on its own.

In terms of the economic factors, a number of views were expressed by consulted interviewees. Notably among these is the geographic position of Lesotho as an enclave of South Africa and therefore by design emanating from the apartheid era, economically dependent on the latter. This view is not new. In its 2010 country review report, the African Peer Review Mechanism (APRM) noted that:

...Other challenges emanate from the peculiar geographic and economic situation of Lesotho. This small, externally dependent economy faces the risk of having its democracy and good political governance agenda determined by powerful external forces. Therefore, questions arise regarding the extent to which Lesotho can determine and own its national policies and political practices, and whether the country can resolve the problems of poverty, unemployment and HIV and AIDS in order to foster development.... (APRM 2010:38).

Some respondents believe that the restriction of movement of Basotho to South Africa coupled with the diminished opportunities in the South African mines means that there is very little sources of income available in Lesotho and therefore politics have become an attractive avenue to income generation. They indicated that poor economic conditions lead to conflict within and between political parties. One respondent argued that:

...with the increasing poverty in Lesotho, those who venture into politics see it as a lifetime opportunity

to escape poverty, while those who are already in the system would do anything to keep their positions, including engaging in violence. I also think that if we look back a few years, a time when South African mines were retrenching Basotho men from the mines, majority of them went into politics, this is the reality with the majority of male politicians in Lesotho including the current Deputy Prime Minister Mothejoa Metsing. So, they see this as their only way of surviving the escalating poverty in Lesotho, which eventually leads to all forms of electoral violence when things don't work to their advantage. Electoral violence in Lesotho has led to general insecurity, instability and lack of peace {Interview: Rabele, June 2016, Written Response}.

According to Chris Landsberg (2007:96), Lesotho faces challenges of poverty and unemployment against the background of rising HIV/Aids infection rate. The UNAIDS HIV Epidemic Profile 2014 shows that the country has the second highest HIV prevalence in the world (2014:2). Although the country generates revenue from natural resources such as water which is sold to South Africa as well as diamonds sold in world markets, limited job opportunities and inequality in society shapes the way in which people and political parties relate to each other and their attitude towards the electoral contest. Consequently, the political elite and their parties have created a milieu of patron-client politics where those in power have unconstrained access to public resources for personal gain, nepotism and cronyism.

Another phenomenon almost unique to Lesotho which explains the country's electoral-related violence is the culture of political party splits. All consulted interviewees point out that the parties are personality based. In the minds of most political parties rank and file membership as well as the middle and top party leadership, party politics are divided along the lines of "Congressites" (followers of the late Ntsu Mokhehle) and "Nationalists" (followers of the late Leabua Jonathan). This perception was also noted eleven years ago in a study by Matlosa and Sello (2005) who opined that, *One of the major weaknesses of political parties in Lesotho is the incessant fragmentation and factionalism. This fragmentation manifests by way of continuous splits triggered not so much by internal ideological or policy tensions, but rather by personality differences and leadership tussles and scuffles. The net effect of this trend is the existence of institutions that tend to be synonymous with leadership personalities. The leader becomes the party, and conversely the party becomes the political fiefdom of the leader. This explains why Lesotho politics is so strongly imbued with personality cult of prominent leaders (for example, the late Leabua Jonathan and the late Ntsu Mokhehle).*

Table 1 below aptly captures the phenomenon of personality cult politics and party splits. It clearly shows that all parties are either the BCP or BNP off shoots. The BCP has given birth to eight political Parties. Its first progeny, the BNP, has given birth to five off-shoots. The LCD, a splinter from the BCP, has split five times while its splinter party, the ABC has split four times. The key and relevant question is whether these party splits were a result of fundamental ideology and policy differences. The study finds that this is not necessarily so. The splits are more attributable to personality differences than to matters of ideology and policy as already reflected in Matlosa and Sello (2005).

According to one of the key respondents:

Pre-election party splits generate election-related tensions that lead to conflicts of varying magnitudes. The five general elections of 1998, 2002, 2007, 2012 and 2015 were all preceded by splits of the parties in government. Because of the tensions created by the splits, election rigging allegations are easy to sell among the party members hence a series of post-election conflicts. (Interview: Mosoeunyane, May 2016).

Sharing similar sentiments, the Commissioner at IEC Lesotho recons that:

In order to deal with the issue of political intolerance, there has to be a thorough assessment of inter-party and intra-party dynamics, as this will help to effectively promote a culture of inter/intra party dialogue thus enhancing tolerance. There is a need for some kind of political tolerance accord to be observed by all political parties {Interview: Pholo, May 2016}.

Table 1: Lesotho political parties and their splits: 1952-2016

Main political parties	Pre-Independence Splinters	Post-Independence Splinters
B C P founded in 1952 and ruled from 1993-1997 Leader: Ntsu Mokhehle	1. Basutoland National Party (BNP) (1957): Leader, Chief Leabua Jonathan 2. Marematlou Party (MTP) (1957): Leader, Chief Seephephe Matete 3. Basutoland Freedom Party (BFP) (1961): Leader: Mr. BM Khaketla	1. United Democratic Party (UDP) (1967): Leader, Mr. Charles Mofeli 2. Sefate Democratic Union (SDU) (1994): Leader, Mr. Bofihla Nkuebe 3. Lesotho Congress for Democracy (LCD) (1997): Leader, Dr. Ntsu Mokhehle 4. Basutoland African Congress (BAC) (2002): Leader, Chief Molapo Qhobela 5. Basotho-Batho Democratic Party (BBDP) (2006): Leader, Mr. Jeremane Ramathebane
B N P founded in 1957 and ruled from 1966-1986 Leader, Chief L e a b u a Jonathan		1. Lesotho Unity Party (LUP) (): Leader, Leo Matlabe 2. National Independent Party (NIP) (1985): Leader, Mr. Anthony Manyeli 3. National Progressive Party (NPP) (1995): Leader, Chief Peete Nkuebe Peete 4. Basotho Democratic National Party (BDNP) (2006): Leader, Mr. Thabang Nyeoe 5. Democratic Party of Lesotho (DPL): (2016): Leader, Limpho Tau, 'Mamako Mohale and Malimatle Hlalele (Interim Leaders)
L C D founded in 1997 and ruled from 1997 to 2012 Leader: Ntsu Mokhehle		1. Lesotho People's Congress (LPC): (2001): Leader: Mr. Kelebone Maope 2. All Basotho Convention (ABC): (2006): Leader: Mr. Thomas Thabane 3. Democratic Congress (DC): (2012): Leader: Mr. Pakalitha Mosisili 4. Reformed Congress of Lesotho (RCL): (2014): Leader, Ms. Kekeletso Rantšo 5. Movement for Economic Change (MEC): 2017: Leader, Mr. Selibe Mochoboroane

A B C founded in 2006 and ruled in coalition with the LCD and BNP from 2012 to 2015 L e a d e r , T h o m a s Thabane		1. Senkatana Party (SP): (2009): Leader, Mr. Lehlohonolo Tšehlana 2. African Christian Front for Democracy (ACFD): (2009): Leader, Mr. Paul Masiu (Moruti) 3. Progressive Democrats (PD): (2014): Leader, Mr. Mophato Monyake 4. Truth and Reconciliation Unity (RAU): (2017): Leader, Mr. Tlali Khasu
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Sources: Shale 2016

Respondents unanimously indicated that in the past, the first-past-the post (FPTP) electoral system was one of the major sources of electoral violence as it tended to benefit the dominant party at the exclusion of the minority parties. A clear example of this is the 1993 election outcome where the BCP got 75 % of the votes against 25% of opposition votes and the 1998 results where the LCD received 60.7% against opposition's 39.2%. Yet, on both occasions, opposition parties only had one seat respectively with the Sefate Democratic Union (SDU) having won a by-election in 1994 and BNP winning one seat in 1998. As one respondent puts it:

...In 1993, the country entered into a new journey of constitutional democracy. The BCP won all the constituencies and, because of the plurality electoral model, the FPTP, the BCP got 100% representation in Parliament despite not winning 100% of the popular vote. The consequence of this state of affairs was that opposition views and complaints found expression outside the parliament and as violent conflict. {Interview: Thoahlane May 2016}.

The effect of the FPTP electoral system has been a culture of non-acceptance of election results since independence. Added to this is what one Respondent calls,

... the culture of not respecting the constitution and laws of Lesotho, failure to observe the electoral code of conduct.... {Interview: His Grace, Archbishop Tlali Lerotholi, the Archbishop of Maseru, May 2016}.

Given the zero-sum nature of the electoral system, losing has not been an acceptable option to the main political contestants. For instance, the BCP did not accept the outcome of the 1965 and it called for Lesotho not to be granted independence. When the BCP seemed set to win the 1970 elections, the BNP nullified the elections and usurped power until 1986. The BCP claimed a land slide victory at the 1993 polls but opposition parties did not accept the elections claiming that a "magic ballot paper" had been used to hand over victory to the BCP³. Recalling this, one of the key informants indicated that:

...political leaders engage in face saving tactics by blaming their own failure at effective campaigning on the EMB claiming all manner of irregularities thus inciting party rank and file to cry foul. A typical example being "pampiri sekokoto" theories that were advanced by the losing party/ies in the 1993 elections. These theories were rife that a significant number of losing party followers totally believed. This led to conflicts. {Interview:

³ The parties claimed that the ballot paper used for the 1993 elections was designed in such a way that even if a voter voted a different party from the BCP, the voters' mark would be automatically deleted by the magic ballot paper such that by the time of vote counting, only a new pre-designed mark in favour of the BCP would remain on the ballot paper. They called this magic ballot paper, "Pampiri Sekokoto" in the vernacular directly translated (an unusually hard paper).

Nyaphisi May 2016}

Another respondent opines that:

...Politicians usually expect to win and when they don't, they start to cry foul. They do not create space for defeat and disappointment in the mindset as a result they are not able to cope with the consequence of defeat. This is more so because they are in politics for economic and financial gain (access to state resources). This attitude makes elections a high stake/do or die activity.... {Interview: Mabetha, June 2016}.

Lesotho experienced election-related violence yet again in 1998, following the overwhelming victory of the newly formed LCD. It was the most serious challenge the country's young democracy – newly restored in 1993 after more than twenty years of unelected and military regimes – had ever faced. The electoral violence that followed the 1998 elections is described by one respondent as having “*deteriorated into near anarchy (looting, arson, casualties) in the capital city of Maseru and the southern towns of Mafeteng and Mohale's Hoek*” {Interview: Mosoeunyane, May 2016}. Reflecting on the same conflict, the Lesotho Ombudsman who is also the former Chairperson of the IEC stated that:

...the 1998 elections produced a parliamentary configuration similar to that of 1993 (i.e. an exclusive parliament). Turmoil erupted and the country experienced the worst post-election violence in its democratic history {Thoahlane May 2016}.

Following the 1998 political disturbances, Lesotho established the Independent Political Authority (IPA) through which it engineered a new electoral model which would be more representative and accommodative of minor parties.⁴ The IPA led electoral systems reform gave birth to the Mixed Member Proportional (MMP) Representation system which is a combination of the FPTP and Proportional Representation (PR) electoral systems. The new electoral system essentially meant that the constituency-based seats (FPTP) and the party-based seats (PR) would henceforth constitute the legislature on seat allocation formula ratio of (80:40). Meaning that 80 of the 120 seats would be allocated for the FPTP votes while 40 would be allocated for the PR votes. Thus, the latter would be determined on the basis of total votes cast in the former.

The MMP was first used in 2002 elections and it yielded an inclusive National Assembly for the first time since the country's independence. Because the MMP takes into account popular vote, eight parties which had not secured a victory in the 80 constituencies were rewarded seats based on the proportion of the total votes they received. Therefore, despite the LCD dominance, nine opposition parties were represented in the National Assembly (See table 2). As the former Chairperson of the IEC states, “*the new MMP model produced an inclusive and widely representative Parliament. Consequently, there was no post-election violence*” {Interview: Thoahlane May 2016}. However, he further notes that:

...MMP model has the disadvantage of destroying intra-party democracy in that through patronage as the National Executive Committees (NECs) of parties put their favoured candidates in the party list. Thus exacerbating intra-party tensions which result in conflicts.

⁴ IPA consisted of 2 representatives of all the political parties which had participated in the disputed 1998 elections

Table 2: The 2002 General Election Results

Parties	No. of valid votes	% of votes	FPTP seats	PR Seats
Lesotho Congress for Democracy (LCD)	304 316	54.8	79	-
Basotho National Party (BNP)	124 234	22.4	-	21
Basutoland African Congress (BAC)	16 095	2.9	-	3
Basutoland Congress Party (BCP)	14 584	2.7	-	3
Lesotho Peoples Congress (LPC)	32 046	5.9	1	4
National Independence Party (NIP)	30 346	5.5	-	5
Lesotho Workers' Party (LWP)	7 788	1.4	-	1
Marematlou Freedom Party (MFP)	6 890	1.2		1
Popular Front for Democracy (PFD)	6 330	1.1	-	1
National Progressive Party (NPP)	3 985	0.7	-	1
Other 9 parties	7772	1.4	-	-
Total	546 614	100.0	80	40

Source: IEC Lesotho 2002

To conclude on the issue of electoral-related violence drivers in Lesotho, the study finds that alliances and coalitions have also been a source of electoral-related violence. Literature shows that political parties enter into coalitions for various reasons. They sometimes enter into coalitions as a consociation measure (Kadima 2006; Shale 2010) or to simply maximize electoral economies of scale as an office seeking strategy (Setsiba 2005; Kadima and Kasenally 2005; Kapa and Shale 2014). Political parties in Lesotho have not entered into coalitions for the purposes of managing conflicts. In fact, the main parties have refused to consider the idea of forming a grand coalition after the 2015 elections despite this having been recommended by many including former Kenyan Prime Minister, Raila Odinga (Lesotho Times, March 2015). This kind of coalition was seen by some as a possible solution to the current political stalemate resulting from inconclusive 2015 election results. Three alliances were formed ahead of the 2007 elections. The LPC, the BAC and Mahatammoho formed the Alliance of Congress Parties (ACP) while the ABC, the LWP and the SDP entered into an election pact. The ruling LCD also entered into an agreement with the NIP. This researcher has stated elsewhere (Shale 2007) that the APC was the only properly constituted alliance in compliance with the electoral law because it was registered by the Independent Electoral Commission (IEC) as one entity for the purposes of the elections. The other two were registered with the IEC as independent parties and this meant that after the elections, they would be allocated seats individually even though they agreed not to compete against each other and fielded constituency candidates under one party the bigger one (the ABC and LCD respectively) while party lists were under the smaller partnering parties (LWP and NIP respectively).

In the aftermath of the 2007 election it became apparent that these arrangements had circumvented

the spirit of the MMP electoral system. As table 3 below shows, in a 120-member National Assembly, LCD got 61 constituencies and ABC 17. Since LCD and ABC did not submit the PR lists to the IEC, only their partners and other parties were considered by the IEC in the allocation of the 40 PR seats. The NIP got 21 PR seats while the LWP got 10 seats. The other remaining nine seats were distributed among seven other smaller opposition parties. The consequence of these arrangements was that LCD/NIP alliance secured an exaggerated 20 seats, which made their total number of seats in the national Assembly to be 82 instead of 62 seats which the parties ought to have garnered had they run together during the election.⁵

Table 3: Lesotho National Assembly Election Results and Seat Allocation Summary February 2007

Political Party	F P T P seats	% of F P T P Seats	T o t a l p a r t y (v a l i d votes)	% of T o t a l p a r t y votes	P a r t y ' s allocation (PR) seats	T o t a l No. of seats	% of P R s e a t s + F P T P seats
All Basotho Convention (ABC)	17	21,3%	None	0,0%	0	17	14,3%
Alliance of Congress Parties (ACP)	1	1,3%	20,263	4,6 %	1	2	1,7%
Basotho Batho Democratic Party (BBDP)	0	0,0%	8,474	1,9%	1	1	0,8%
Basutoland Congress Party (BCP)	0	0,0%	9,823	2,2%	1	1	0,8%
Basotho Democratic National Party (BDNP)	0	0,0%	8,783	2,0%	1	1	0,8%
Basotho National Party (BNP)	0	0,0%	29,965	6,8%	3	3	2,5%
Lesotho Congress for Democracy (LCD)	61	76,3%	None	0,0%	0	61	51,3%
Lesotho Workers Party (LWP)	0	0,0%	107,463	24,3%	10	10	8,4%
M a r e m a t l o u Freedom Party (MFP)	0	0,0%	9,129	2,1%	1	1	0,8%
N a t i o n a l Independent Party (NIP)	0	0,0%	229,602	51,8%	21	21	17,6%
New Lesotho Freedom Party (NLFP)	0	0,0%	3,984	0,9%	0	0	0,0%
Popular Front for Democracy (PFD)	0	0,0%	15,477	3,5%	1	1	0,8%

⁵ Election in one constituency were not held due to a death of one of the candidates. A later date was set for the election

Total	79*	100%	442,963		40	119	100%
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Source: Independent Electoral Commission, Lesotho 2007

It became clear that while LCD/NIP alliance gained significantly, ABC/LWP alliance actually lost two seats because of the circumvention of the electoral system. LCD formed a single-party government but with a large number of its Members of Parliament appearing on NIP list, some of these LCD MPs were even appointed as ministers. The NIP was regarded as the official opposition by the LCD instead of the ABC which was actually the second biggest party by virtue of its constituency support. Consequently, the post 2007 elections period was characterized by incidents of latent and manifest violence. The government and opposition parties got embroiled in conflict, which culminated into opposition-staged protests such as massive stay-away which is a form of protest where people were told not to go to work. There were opposition-led demonstrations, arrests, alleged abductions and torture of some opposition supporters by the military, declaration of curfew by the police, and exile of some opposition supporters (Kapa and Shale 2014). The tensions warranted the intervention of SADC through the appointment of the Former President of Botswana Sir Ketumile Masire as mediator. Following numerous attempts by the mediator to get the parties to make progress in talks, it became clear that this was not going to happen as in the words of Sir Masire, the parties were not cooperating. Sir Masire withdrew from the process in July 2009 which also saw the end of a SADC led mediation process. SADC approach to the Lesotho political problems changed from being the lead facilitator to being a technical supporting agency from behind the scenes together with the UNDP. Amidst this desperate situation, the civil society formations led by Lesotho Council of NGOs (LCN) and Christian Council of Lesotho (CCL) took the baton and began a shuttle diplomacy between the belligerent sides in the conflict. The intervention of civil society players had an effect of arresting the tensions and it provided a platform for continued dialogue. The positive aspect that has come out of the post-2007 election disputes is the electoral reforms especially on the alliances and petitions on seat allocations. The National Assembly Elections 1992 Act has since been repealed with National Assembly Elections Act 2011. Worth mentioning in this study is that this law:

- Provides for the use of one ballot instead of the two as previously done but it retains all the other features of the MMP electoral system. This means that the party's FPTP national votes are now used to determine its share of the PR compensatory seats.
- Specifically dictates that all political parties which form alliances should register such alliances with the IEC if they intend to contest elections under those alliances. This provision thwarts alliances similar to the LCD/NIP and the ABC/LWP alliances referred to above.
- Empowers the High Court to have jurisdiction over election related cases particularly pertaining to the allocation of seats. Furthermore, it also entitles ordinary voters, the electoral commission, Attorney General and political parties to request the High Court to review the allocation of parliamentary seats.

In 2014, the Lesotho Government dispatched a delegation of governing and opposition MPs as well as parliamentary staff on a study tour to New Zealand to study how coalitions work under the MMP system from which Lesotho's electoral system has been copied. The Lesotho delegation produced a report which highlighted areas of reforms so as to refine the way in which coalitions work. Recommendations of this report were not implemented prior to the 28 February 2015 elections. Therefore, despite the above mentioned electoral reforms have adequately addressed the problem of pre-election alliances, the emergent phenomenon of coalition politics remains a source of electoral-related violence because smaller parties which have no hope of winning elections get to power by brokering deals with the bigger parties from which they split in the first place. For instance, in the previous ABC led coalition government, the PFD, BCP, Basotho-Batho Democratic Party (BBDP), LPC, Basotho Democratic National

Party (BDNP), NIP and MFP entered into an alliance which they named the bloc. The bloc's position was to support the coalition government in principle and it had a "casting vote in parliament" whenever there was a stalemate between the governing coalition and the main opposition, the DC. Thus, the bloc threw its weight behind the government and voted with it in parliament against the DC.

Six of these parties shifted camps in 2015 and joined the DC led coalition government which replaced the first coalition government. According to Newton and Deth (2005:234), this should not be a surprise because one of the reasons for politicians to form coalitions is that they want to influence public policy so that their party interests are catered for. They suggest that in pursuance of this goal, politicians form coalitions especially if they realise that their parties have no chance of winning elections or parliamentary seats. Unlike during the past ABC led coalition government, the PFD, BCP, BBDP, LPC, NIP and MFP decided to support the government from within by accepting ministerial, ambassadorial and other senior government positions.⁶ Thus, the smaller opposition parties have effectively become king makers in the political game- the effect of which has been escalation in political tensions and character assassination of the leaders of these smaller parties who are accused of political opportunism. This view is also affirmed by a key respondent who observes that the MMP model as it is applied now:

... gives parties parliamentary strength that is not commensurate with their popular vote and this leads to moral and legal tensions. The feeling of minority government (sic) surfaced in 2015 when parties with inferior popular votes became part of a coalition government {Interview: Sematlane: June 2016}

From the foregoing brief exposé of the context within which Lesotho's electoral-related violence obtains, it is clear that the country's electoral democracy is characterized mainly by a shaky political system. Such a characteristic predisposes Lesotho to various adverse repercussions including but not limited to election related disturbances, disputes and conflicts. The next section looks at the frequency and geographic spread of election related violence in the context of Lesotho. It looks into among other things whether the violence takes place in the capital city or remote areas as well as whether such locations are dominated by opposition parties or are shared between opposition and the ruling party. The role of security agencies is also looked at in terms of whether or not government exercises control through the use of force.

Section II - The Frequency and Geographical Spread of Election Related Violence

As indicated earlier in the preceding section, Lesotho has had nine general elections since political independence. Although there have always been unresolved issues from one election to the other, electoral-related violence has largely occurred every five years during elections, thus cyclical. With a few exceptions such as in 1965, electoral-related violence has always been manifest immediately after polling. According to a key informant:

The pre-election environment of 1965 was a build-up of the post-election tensions of 1960 emanating from the frustrations of the BCP for not having a stake in the Executive Council Because of the plurality electoral model used in the 1965 elections, the BNP which polled 42% of the popular vote became government. The opposition parties amassed 58% of the vote. Thus, the BCP questioned the legitimacy of the BNP government thus escalating the existing political tensions... Thus the 1970 elections were conducted within a framework of deep-rooted inter-party tensions. The refusal of the BNP to relinquish power after losing the 1970 poll and suspending the constitution was the last straw. {Thoahlane 2016}

⁶ The BBDP is not in cabinet but its leader has been rewarded with a Senatorial seat.

The elections have had varying degrees of disputes, conflict and violence as shown in table 4 below.

Table 4: Lesotho's electoral disputes and conflicts 1965 – 2015

Year of Election	Electoral Model	Type & Status of violent conflict	Stage in Electoral Cycle
1965	FPTP	Violent conflict	Pre-election
1970	FPTP	Massive	Election phase
1985	FPTP	High security deployment leading to low-key dissentions on credibility of election	Pre-and post-election phase
1993	FPTP	Low-key dissentions on the poll results	Post-election phase
1998	FPTP	Violent conflict	Post-election phase
2002	MMP	Sporadic low-key dissentions. Largely incident- free	Post-election phase
2007	MMP	Violent conflict	Post-election phase
2012	MMP	Sporadic low-key dissentions.	Post-election phase
2015	MMP	Violent conflict	Post-election phase

The above table shows that the past nine elections in Lesotho have always been accompanied by violence. The 1965 elections were preceded by violent attack on the BCP supporters who were trying to hold a political meeting in Rothe by a vigilante group organized by the Principal Chief who was pro-the MFP. The attack resulted in four deaths of the BCP members. (Weisfelder 1999). Similarly, the 1970 elections took place under tense political environment with the BNP government having used an iron fist against the BCP and monarchy. The brutal killing of citizens who had gathered at the mountain fortress of Thaba-Bosiu to be addressed by the then King Moshoeshoe II is a case in point (Khaketla 1971). The BNP government held sham elections in 1985 and literally contested against itself because opposition parties had boycotted the election. At this time, the Lesotho Youth Service (LYS) militia was on the rampage and there was a general sense of insecurity prevailing in the country {Interview: Sofonea Shale, May 2016}.

As already mentioned, opposition parties protested against the 1993 election outcome alleging that the elections were rigged through the use of a magic ballot paper. The 1998 elections were followed by violence as the opposition disputed the victory of the LCD which was formed ahead of the elections. Although the 2002 were by far the least eventful, respondents indicated that there were some isolated latent electoral-related conflicts especially within parties as some people did not readily accept being left out of the party lists for the new electoral system. The literature and interviews have revealed that the period leading to and post the 2007 elections represents the reversal of the post 2002 gains of political stability and peace. The manipulation of the electoral system created tensions and open violence as the ruling LCD and opposition locked horns over the distribution of National Assembly seats. The advent

of coalition politics brought back inter-party conflicts as parties which win more constituencies get elbowed out of power through alliance formations.

Geographical Spread

Available evidence points largely to a trend of visible electoral-related violence happening predominantly in the capital city of Maseru and urban centres because this is where there is active mobilization of supporters for political activities. This was clearly the case during the 1998 political disturbances following the landslide election victory of the newly formed LCD. However, because of the culture of patron-client politics, the vulnerable and poor masses across the country are manipulated to advance the cause of the political elites on privately-owned radio stations. The manipulation of citizens takes place against the background of weakened civil society. The country has recently witnessed a proliferation of private radio stations and print media as shown in table 5 below:

Table 5: Print and electronic media in Lesotho as at December 2016

Media	Name	Comment
Television	Lesotho Television	State
R a d i o stations	Catholic Radio FM	Private
	Harvest FM	Private
	Lesotho Evangelical Church FM	Private
	MoAfrica FM	Private
	People's Choice FM	Private
	Radio Lesotho	State
	Ultimate FM	State
	Tsenolo FM	private
	Thahakhube FM	Private
Newspapers	Business Edge	Private
	Informative	Private
	Lesotho Times	Private
	Moeletsi oa Basotho	Private
	Sunday Express	Private
	Lesotho Today	State
	Lentsoe La Basotho	State
	Fill the Gap Ministries FM	Private
	Joy FM	Private
	Mafeteng Community Radio	Private
Institutes	Media Institute of Southern Africa (MISA)	Regional
Agencies	Lesotho News Agency (LENA)	State

The quality of programme production as well as presentation is largely poor with phone-in-platforms glaringly inclined to political parties' agenda. For instance, during the 2015 elections, Tsenolo FM and Mo-Africa FM were pro-the Congress parties namely, the LCD and DC while the Peoples' Choice FM and

Harvest were pro-the ABC and the BNP. In this setting where media houses are aligned to political figures, factional battles in parties have a ripple effect on some media outlets which in turn fan more tensions between the warring factions. For instance, following the DC split in November 2016 and formation of the Alliance of Democrats (AD) some weeks later, Tšenolo FM has switched camps and now supports the AD and ABC. The two parties formed a cooperation pact that successfully tabled a motion of vote of no confidence in parliament against the Prime Minister. Their victory triggered a snap election which will take place on 3 June 2017. Thahakhube FM which had hitherto the split been accommodating both sides of the political divide have become an exclusive propaganda machine for the LCD, DC and other congress parties. PC FM remains loyal to the ABC, BNP and their allies as was the case in 2015 while Harvest has since switched camps and now supports the LCD and publicly announced its decision to never cover the ABC because of its owner's differences with the wife of the ABC leader.

A consulted media expert indicated affirmed the fact that radio stations in Lesotho are very powerful in shaping public opinion. He lamented that most of these radio stations are run by very poorly trained practitioners. As a result, the period leading up to the 28 February 2015 elections was marred by an increase in political tensions. According to him, the media that was:

...characterized by clear attempts to fuel the political instability in Lesotho. The country's radio stations were unethical, biased and taking clear political lines leaving listeners not sure what to believe anymore. It was MISA Lesotho's conviction that had the situation left unattended, Lesotho would follow Rwanda where the media played a major role in having citizens killed in big numbers. {Interview: Matšasa, May 2016, follow up interview May 2017}.

While most private radio stations as indicated above are clearly used as avenues of political partisanship, the state radio (Radio Lesotho) remains stifled by incumbency. Radio Lesotho and Lesotho Television (LTV) are both owned by and controlled by the government. During elections, they tend to favour and reflect government's position on all issues Musanhu (2009). During the previous ABC led coalition, the state media was caught in between intra-coalition conflict and it was seen as serving the interests of the LCD which controlled the communications ministry at the exclusion of the ABC and BNP.

The chapter finds that adding to the problem of national spread of electoral violence in Lesotho has been the use of music composed for the main political parties. Professional traditional music artists are as polarized as the media along political lines and serve as propaganda machines for the contesting parties since the 2012 elections. Almost all the major political parties have vulgar music composed for them. These musicians rap music to hurl insults, abuse, divisive messages and all manner of vulgarity in their CDs. This practice of partisan vulgar music has resulted in fatalities and burning of property across the country especially in the district of Mafeteng.

Whereas other respondents use the 1998 political violence as a reference to their view that there is minimal direct electoral-related violence except for the 1998 general elections in which the post-election conflict erupted into violence that deteriorated into near anarchy (looting, arson, casualties), some respondents warned that this is not necessarily the case. These respondents argued that electoral-related violence takes place throughout the country especially where there is no media coverage. They argue that there are different types of violence which take place anywhere where there is a political activity but they do not get adequate media attention. These include: *"the violence against women in political processes particularly during primary elections for party representatives"* {Interview: Mabetha, June 2016}.

The marginalization of women in electoral processes is indeed seen as a form of electoral-related violence. Figures for the recent 2015 elections show that 55.8% of the total number of registered voters were women (IEC Lesotho 2015). Despite the high number of female registered voters, the number of

nominated female candidates contesting at the constituency level (FPTP) was only 30% (331) of the 1,106 candidates. Lesotho uses the 'zebra-list' system for the proportional representation party lists that ensures that 50% of the 40 PR seats are female. Therefore, it was only on the PR lists where women were given a fair chance to participate. Another respondent adds:

There is domestic violence related to elections particularly during electoral campaigns and this traumatizes families especially children. As a result of this trauma extreme anger rears its ugly head and children grow up wanting to avenge the persecutions of their parents. Some of the politicians get into politics so as to access power that will enable them to settle old scores. Whether they fail or succeed, the consequence is violent tendencies...there is no magical or universal solution to this problem of a vicious circle of anger and hatred {Interview: Phomane, June 2016}.

Adding to the impact of violence and its spread another respondent posited that:

...when there is violence and political instability, women's concerns are hardly taken into consideration even in mediation. The approaches used in addressing the violence and instability across the country are usually militarised and masculine, not taking a human rights approach. In addressing the situation in Lesotho since 2013, little consideration has been given on women who are victims of all the violence and political instability, including the current post 2015 election situation with the wives of detained army officials. These are housewives and with their husbands in detention centres, it may be difficult to provide for the families hence increased feminisation of poverty, and continued marginalisation of women in negotiating the peace and post violence mediation and reforms. As a result of electoral violence and political instability in Lesotho, investor confidence has dropped, main global funders have pulled out funds from Lesotho. Some major government programmes affected include health, which has severe impact on maternal and infant health for the country. The clothing industries in Lesotho also felt the pressure and retrenched many workers whom majority are women, increasing the already high unemployment in Lesotho. Women in particular young women risk human trafficking as they try to leave the country looking for job opportunities, illegal migration and sexual exploitation. This has negative health consequences as well. Although in many countries sex is used as a weapon of war during conflicts, in Lesotho that has not been reported and so we are not aware, but the most critical impact is feminisation of poverty, unemployment, high cost of living and human trafficking {Interview: Rabele, June 2016, written response}.

Based on the foregoing, this chapter finds that the economic and social factors have severely impacted on the geographic spread of the violence in Lesotho and affects marginalised groups in society such as women, youth and people with disabilities.

Section III – Electoral Administration and the Legal and Institutional Mechanisms for Addressing Electoral Violence

There is a strong correlation between electoral-related violence and fundamentally flawed electoral processes. Flaws in electoral processes are either of administrative, legal or institutional nature. Weaknesses in the administration of elections can lead to adverse repercussions characterized inter alia by violent disputes and conflicts. It is thus imperative that elections are well managed at every phase of the electoral process (Samuel Egwu 2010). The management of elections is the responsibility of election management bodies (EMBs) which, by convention are non-partisan, impartial custodians of the integrity and legitimacy of the elections. They are therefore one of the primary stakeholders of the electoral process. At the national level, national constitutions and electoral laws form the major legal framework for the EMBs. In Lesotho, the constitution establishes the Independent Electoral Commission (IEC) to manage elections. Therefore, functions, duties and responsibilities of the IEC are regulated by the Constitution and the National Assembly Election Act 2011. Although the institutional, constitutional and legal framework exists for the management and administration of elections, some institutions

namely political parties and indeed the party system and the political system remain weak. This renders the task of the IEC to partner with these institutions in the prevention, management and transformation of election-related violence massively formidable. In addition, there exist negative perceptions towards the IEC in terms of its independence. For instance, the current IEC is perceived by some as representing the ABC, LCD and BNP-partners in the previous coalition experiment because the then Prime Minister and leader of the ABC, Tom Thabane declared it as such at a public gathering.

The commission and political parties are the key stakeholders of the electoral process. It is therefore absolutely imperative that relations between the two remain cordial. In developing this relationship which, necessarily must be that of trust, the special onus lies with the commission. There is also a clear onus on the political parties to support the integrity of the commission and the processes it oversees. The foregoing calls for a strong political liaison between these two actors. For this liaison to be successful and effective, a two-way "open door" policy is essential. The commission is empowered by the electoral act to create room for assistance and advice it may need in the performance of its functions (Section 135 (b) (k)). Besides political parties, other key stakeholders are civil society organizations (CSOs) and the media. To this end, civil society has been instrumental in helping resolve election related conflicts. The Head of the Christian Council of Lesotho (CCL), Archbishop Lerotholi indicated that:

...conflict is a complex phenomenon and should be treated as such. A mechanical approach does not work. Experience has shown that transformation of conflict is not a function of one single factor. It is a result of concerted efforts by various stakeholders and partnership. It is important therefore to be cognizant of efforts within the larger framework. Flexibility and open mindedness are essential in dealing with issues that create disharmony because this will deepen trust. The church as part of civil society has a role to play in moulding societal morals and values which should form an integral part of Lesotho politics {Interview: His Grace Archbishop Lerotholi, May 2016}.

Electoral violence is addressed in a two-pronged approach. On the one hand, it is through an in-build mechanism within the EMB. These are consultative structures to ensure ownership of the electoral process by all stakeholders and also to manage the conflict. These structures are:

- (a) **Party Leaders Forum**- this is the forum of leaders of all parties contesting elections which the IEC consults on matters which require decision making on the electoral process. The Forum meets as and when necessary in-between elections and more frequently during election time.
- (b) **Party delegates Forum**- this is a forum similar to the Multiparty Liaison Committees (MPLCs). Representatives of all parties registered with the IEC meet on a monthly basis with the Commission to be briefed on the electoral process. They in turn take the information to their parties. This has been a useful consultative forum as it ensures that every single development pertaining to the electoral process is communicated to the parties in time.
- (c) **Logistics Committee**- in an effort to ensure transparency during election time, the IEC has established the Logistics Committee which consists of representatives of parties nominated jointly by the parties to plan all election logistics with the Commission. The responsibilities of this Committee include among others ensuring that all election materials are bought, safely kept and distributed according to a plan jointly arrived at with the Commission. The Committee also witnesses the tendering process and procedures for all election materials and it also observes the printing of ballot papers and ensures their security in collaboration with the Commission and the Lesotho Mounted Police Service (LMPS).
- (d) **Data Committee**- the data Committee is involved in the compilation of the voters roll. It works with the Commission on the entire voter registration process and also on all voter registration complaints

which may arise during the voter registration process.

- (e) **Monitoring Committee**- this is a committee made up of representatives of the parties contesting elections whose role is to ensure that all election operations are carried out without problems. The committee jointly with the IEC deals with all challenges which appear during the electoral processes.

The other avenue for dispute resolution mechanism is through the court system. In the event of disputes in relation to the electoral process or outcomes thereof, the legal framework provides for the relief for the aggrieved in the courts of law. The High Court of Lesotho acts as an Electoral Court over matters relating to elections. The law also allows for cases to be appealed to the Appeal Court. The chapter established that there is some level of frustrations born of undue delays in dealing with electoral petitions. The public perception is that the courts of law consciously and deliberately cause the delays leading to public mistrust in the judicial system. The existence of this perception was confirmed by the President of Lesotho Law Society who stated that:

Previously, there were delays in the handling of election related petitions and this has led to conflicts as people got frustrated. Again, there has been a trend where the law has been used to ill-treat political opponents. There has also been an increase in the lack of trust in the judiciary mainly because lately some of the lawyers are taking active part in party politics. This has not only led to polarization of the judiciary but also diminished image of the legal profession. The Law Society of Lesotho has been working hard to restore professionalism among its members but this is made difficult by the fact that some of the people who are active in politics are not members of the Law Society and they do not have proper legal chambers but operate from the boot of their cars. It is this group of people who make it difficult for the Law society to restore public trust {interview Advocate Shale Shale, June 2016}.

The chapter finds that notwithstanding the public perception above, there has been a lot of improvement in the handling of election related cases mainly because the law now provides a clear direction on the dispute resolution processes. According to the Chief Justice of Lesotho, there were a couple of cases in 2015 compared to other years. She indicated that:

Only three cases were lodged in with the High Court and these were contesting the party PR lists in the BNP and ABC. These were eventually settle out of court. The other case other case was about the allocation of the PR seats where the BDNP was challenging the IEC's decision to exclude the votes of Independent Candidates in the seat allocation formula. The case was thrown out of court as the IEC was found to have acted in accordance with the law {Interview Her Lordship Justice Nthomeng Majara, June 2016}.

Section IV - Key Factors for Preventing Electoral-Related Violence and Strengthening Early Warning Mechanisms

Electoral conflicts are by their nature deep-rooted and it becomes axiomatic that they be approached with extreme circumspection. The deep-rootedness of electoral conflicts are a subject of political institutions such as political parties themselves, the party system and the political system. In SADC and indeed in Lesotho where political institutions are weak, the prevention and transformation of violent electoral processes, operating electoral systems, leadership and societal integrity also play a pivotal and are cardinal. The real question about electoral-related violence in Lesotho is to what extent preventive efforts are addressing the symptom and not the root cause of the violence. For instance, following the electoral crisis of 1998 the political parties and indeed a large section of the people were of the view that more inclusive parliamentary representation, reflecting the diverse opinions of the parties which participated in national elections would foster better ownership of the electoral process among the country's political parties, result in a more widely representative Parliament, foster national cohesion, and give all credible parties meaningful stakeholder participation in the governance of the country.

With the foregoing in mind, a review of the electoral model was undertaken as has been mentioned in the earlier sections of this report. This new system was used in the 2002 general elections and the outcome was a widely representative Parliament. As an outcome of this inclusiveness, the country enjoyed an unprecedented period of political stability albeit short-lived because five years later in 2007 the country was plunged into yet another post-election violent conflict. Thus, transformation of the electoral model did not help. To date, election related violence continues to haunt Lesotho. According to a respondent from Genderlinks:

... Basotho have violent mindset and use the popular phrase that "Khang ea monna e khaoloa ke letlaka". When things don't go their way, Basotho resort to violence. Given this trait, they are very prone to political violence {Interview Mabetha, June 2016}.

The above remark gives the impression that electoral-related violence conflict in Lesotho can be easily predicted based on the fact that the historiography of elections in Lesotho shows that the country has a very high propensity for electoral violence. Another factor is the tension between the military the political parties and in the general public.

The military has been seen as a common factor in violent eruptions of 1994, 1998 and 2014 and this raises the question of whether the Lesotho violent conflicts are a civilian electoral political issue or a military one. Put somewhat differently, the question would be whether the conflicts are election-related or they are manifestations of deep-rooted civil/military tensions. These considerations are essential in determining preventative and early warning mechanisms. Be that as it may, they are beyond the scope of this current research. Suffice to say that whether security (read military) or election related, it is clear that the country is ill equipped to deal with the conflict.

There is a consensus among consulted informants that despite this reality as substantiated by Mrs. Mabetha's quote above, the country does not have early warning mechanisms. This, in their view leads to failure by the EMB and other relevant stakeholder to detect the possibility of violence. This is despite the fact that there are expressed intentions in the national development policies such as the National Strategic Development Plan (NSDP), Vision 2020 and the APRM National Plan. Failure to institutionalize a system that focuses on systematic data collection and analysis as well as risk assessment and information sharing largely owes to lack of political will and poor prioritization. This Achilles heel has also been noted by the Southern African Development Community (SADC) which has been seized with Lesotho's umpteenth election related conflicts and political instability. SADC has been officially facilitating and monitoring the political crisis in Lesotho since 2014 with South African Deputy President, Cyril Ramaphosa, appointed SADC facilitator. The SADC facilitation led to the holding of a snap election in February 2015. Political tensions continued after the culminating in the killing of the former Commander of the Lesotho Defense Force Lieutenant General Maaparankoe Mahao by members of the army. SADC appointed a Commission of inquiry into the General's death and general political situation. An oversight committee has also been created by SADC to monitor implementation of the Commission recommendations. Hence, the development of an early warning mechanism is one of the recommendations made by the SADC in its communiqué following the Double Troika Summit held in Botswana on 28 June 2016. The summit was convened to review progress made by the government of the Kingdom of Lesotho on the implementation of SADC decisions in relation to the political and security situation in Lesotho. Article 8 of the SADC Double Troika Communiqué reads:

Summit approved the Term of Reference (TORs) for the Oversight Committee, as an early warning mechanism that will also provide assistance in the implementation of the Constitutional, Security and Public Sector Reforms. Summit directed the Secretariat to immediately operationalize the Oversight Committee which will be headed by the Republic of Mozambique in her capacity as the Chairperson of the Organ on Politics,

Defence and Security Cooperation.

In the absence of an early warning system, respondents recommended development of programs for enhancing intra-party democracy and inter-party tolerances as well as closer cooperation between government and non-state actors. They opine that networking and dialogue beyond crisis periods, visionary leadership, and capacity development for civil society are key. Originally, in Lesotho, civil society organisations were viewed with suspicion if not outright hostility. This affected their ability to lobby effectively and advocate on behalf of society. However, there is now a growing appreciation of the essential role of CSOs in governance. As Sofonea Shale puts it:

... the involvement of local non-state actors has proven its mantle in transforming electoral conflicts and needs to be encouraged and nurtured going forward. Lesotho being prone to election-related conflicts needs to resuscitate its culture of continuous dialogue. The country is rather thin on the ground with regard to early warning mechanisms but a culture of “unforced” dialogue can turn this around {Interview Sofonea Shale, May 2016}.

Another respondent believes that working through existing and time-tested grassroots systems should be encouraged. According to him:

... societal degeneration is a root cause of political and civic indiscipline which is a precursor of electoral disturbances. The envisaged social transformation must bring into its equation reforms that target traditional institutions because currently, there is an imbalance between western type (Westminster) administration and a local traditional administration. Efforts must be made to try and balance the two types of administration as this will go a long way in addressing Lesotho’s political system particularly at the local level {Interview Michael Mohasi, June 2016}.

In other countries like South Africa, early warning mechanisms include the establishment of stakeholder engagement mechanisms for greater accountability and transparency in electoral processes. These include multiparty liaison committees (MPLCs) and conflict management panels (CMPs). The MPLCs are made up of political party representatives and their role is to serve as a vehicle for consultation and cooperation between the commission and the political parties participating in the PLCs on all electoral matters. The MPLCs are more active during elections but their meetings are continuous throughout the electoral cycle (Moepya 2010). CMPs are on the other hand used more as conflict management early warning system because they are based in communities and are therefore in a position to detect conflict triggers and deal with them before the violence could break.

Section V – Conclusions and Recommendations

It is clear from the findings of the chapter that since its independence from Britain in 1966, Lesotho is definitely not among the countries in the SADC region that can boast a balanced electoral democracy balance sheet. The chapter has revealed that every single election has been followed by disputes which have driven the country deeper and deeper into the quagmire of instability and violence. In Lesotho, as elsewhere in the SADC region, the increased electoral competition on between political parties has led cases of electoral-related conflicts. The use of security agencies by political elite as highlighted in this report has led to the constricting of democratic space for citizen participation as well as infringement on fundamental freedoms hence the countless SADC’s political interventions in Lesotho. Put differently, electoral competition in Lesotho has become fierce and highlights the deep-rooted deficiencies referred to in this report.

It is therefore safe to conclude that while electoral democracy is expected to build durable peace and social stability which are prerequisites for sustainable human development, elections have regrettably not added any value to Lesotho’s democracy project. Instead they have been costly to the nation due

to conflicts. Lesotho will be celebrating fifty (50) years of political independence in the next few months but, because of the challenges highlighted in this report, there is not gainsaying that the liabilities outweigh the assets in as far as election, democracy and governance are concerned. An important lesson for Lesotho is that, elections are not a panacea to the socio-economic and political problems that bedevil the country. There is much more beyond elections and respondents to this chapter were unanimous that there is more work needed in addressing these problems. It is evident that there is a need to explore the following areas for the way forward and future activities:

- Effective and strategic voter education targeting the youth is of cardinal importance in the fight against electoral conflicts. When the youth's civic responsibilities are enhanced, early warning targets and objective are easier to be accomplished. Therefore, there is a need for the creation of citizen awareness with regard to civic responsibilities.
- There has always been involvement of state institutions especially the security agencies in politics. Politicised army, police and intelligence service have consistently taken sides in political contests and featured as vehicles through which violence is used for political battles. It is recommended that this be mitigated through security and public sector reforms. This is one of the recommendations which has already been made by electoral stakeholders and SADC in an attempt to deal with the current Lesotho crisis.
- It is further recommended that Lesotho creates, transforms and democratises institutions of governance capable of driving socio-economic development in a stable political environment.
- Relations between civil society organisations (CSOs) and government in Lesotho have often been strained because non-state actors are deemed as regime change agents by governing parties. This has at times had a negative ripple effect on the relations between the EMBs and civil society. Yet, these two institutions are supposed to work together. It is therefore recommended that closer collaboration between CSOs and government on the one hand and with the EMB on the other hand be strengthened.
- There has to also be capacitation of non-state actors and other electoral stakeholders to enable them to establish, formalize and sustain dialogue as a conflict management measure.
- Given that the country's electoral violence is said to also be a consequence of a poor economy, there is a need for the resuscitation and collaboration with regional groupings such as the Southern African Customs Union (SACU), SADC and African Union (AU) to explore option for the expansion of the economic base.
- One of the weaknesses of interventions by regional institutions such as SADC in Lesotho and elsewhere in the region is the hit-and-run approach to conflict mitigation. In order to be able to solve problems in Member States, SADC should establish presence by way of Liaison Offices in Member States. These offices should be there throughout the 5-year electoral cycle and, should report directly to the SADC Organ for greater independence instead of being linked through the Ministries of Foreign Affairs. If such an office existed in Lesotho, there would not have been an election in 2015 because it was very clear that the country was not ready for an election. Simply put, absence of continued presence with appropriate expertise led to the SADC Facilitator prescribing a wrong medicine for a wrong ailment in Lesotho. Regardless of which politician is appointed as facilitator, SADC will not be able to solve regional problems without utilizing existing infrastructure

including civil society efforts on the ground. A major weakness in track-one approach adopted in the Lesotho case is that the SADC Facilitator did not genuinely engage with local actors to find a lasting solution. His meetings were very cosmetic with hardly any time available for a meaningful engagement because he would fly in and out of the country with very tight programme. In fact, some of the key non-state actors felt disrespected by the Facilitator whom they accused of meeting them to tell them his views instead of genuinely engaging them to get their views. Without local actors and existing infrastructure regional institutions will always be reactive as opposed to proactively preventing crisis in the region.

- The chapter has clearly shown that political parties are at the centre of the country's political and electoral violence. It is therefore recommended that the internal functioning of parties should be enhanced to promote intra-party democracy.
- There also has to be external regulation of the parties to ensure that they adhere to a certain legal and normative framework in terms of their internal functioning, financing and code of conduct.
- It is further recommended that political parties also meaningfully transform to ensure the inclusion of women and young people in their programmes. Real empowerment of women and youth will not only ensure that the party is reflective of the society from which it draws its membership but also that both women and youth can contribute meaningfully to the management of electoral violence in their communities.
- The chapter has revealed that one of the causes of electoral violence is that there has never been a genuine attempt by the country's leadership to deal with the deep-rooted differences and work toward social cohesion. There is a need for the establishment of National Reconciliation initiative so that the people of Lesotho can talk to each other instead of across each other.
- There is a need for Lesotho to carryout security and public sector reforms as per the New Zealand Report recommendations and indeed the resolutions of SADC including the recent Double Troika ones as reflected in the SADAC Communique.
- There should also be enactment of laws to ensure ethical conduct of the print and electronic media and to promote freedom of expression, as enshrined in the Constitution of Lesotho

Postscript

Following the formation of the seven-party coalition government in 2015, the main party in the coalition, the DC, experienced factionalism which led to its split. Prime Minister Mosisili's faction known as "Lithope" (loosely translated to mean girl-friends in the DC politics) lost all key NEC positions to its rival "Lirurubele" (Butterflies) faction led by the party's Deputy Leader, Monyane Moleleki.⁷ Moleleki went on to form the Alliance of Democrats (AD) and forged alliances with the exiled leaders of the ABC, BNP and RCL. On 12 February 2017, these leaders returned to Lesotho and shortly thereafter they, together with Moleleki successfully tabled a motion of no confidence in the Prime Minister on 01 March 2017. This development led to the dissolution of parliament on 7 March 2017 by the King and his subsequent proclamation of 3 June 2017 as the date for the snap election. At the time of writing this chapter, election campaigns are in full swing as politicians traverse the length and breadth of the

⁷ See Lesotho Times of 4 and 25 December 2015

country seeking votes. At the latest SADC Double Troika Extraordinary Summit, on March 18, 2017, the Heads of state expressed concerns about the political environment leading to the decision to call for snap elections. They decided:

- to task South African Deputy President Cyril Ramaphosa and the Oversight Committee to lead a “multi-stakeholder national dialogue before the elections”.
 - to convene a Double Troika meeting soon after the elections to “engage the Government of Lesotho on the need to implement the SADC Decisions and the recommendations of the SADC Commission of Inquiry through a roadmap with clear timelines”.
- {SADC official communiqué: SADC Double Troika Extraordinary Summit, Mandvulo, Swaziland, March 2017}.

The above SADC resolutions are yet to be implemented and given the fact that the historical, political and economic factors as well as triggers of Electoral-Related conflict cited in the earlier sections remain the same, the context within which the 3 June 2017 snap elections take place is conducive for the manifestation of Electoral-Related conflict.

Madagascar
Author : Juvence Ramasy



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- 3.2 Recommendations

Introduction

Madagascar has a rich electoral history. Indeed, since its independence in 1960, Madagascar has organized 11 presidential elections¹, 11 legislative elections², 7 referendums³ and has experienced 4 republics (1960 - 1972; 1975 - 1991; 1992/93 - 2009; 2013 - ?). These data show that the country has seen a number of multi-party elections and is one of the few countries in Sub-Saharan Africa that has gone through several electoral transitions (1993, 1996, and 2001). Although the country has a history of frequently held elections, the regimes elected in the run-offs, tend to be hegemonic, as one party "takes it all" and installs authoritarian governance practices. These practices and the lack of credibility and transparency in the organization of the electoral process led to violent protests in the post-election phase, the mobilization of power outside the institutions and the seizure of power through public demonstrations (Galibert 2009); and a coup d'état in 2009 (Randrianja 2012, Ramasy 2012). The latter, originating an almost five years during political crisis and international isolation of the country. Internal and external mediation efforts were challenged seriously but ultimately leading to the organization of elections as a necessary condition to end the crisis. With the perspective of the 2018 general elections, Madagascar finds itself before the challenge of organizing peaceful elections as a necessary condition to consolidate democracy and political stability.

In general, election plays a predominant role in society as they are a way to give voice to the political will of the people and such as a fundament of democracy. However, the quality of the elections is essential for the implementation of democracy and elections should be credible, transparent and regular. In the context of post-conflict peacebuilding, elections are considered a process necessary for a political solution to violent conflict and a basis for a durable peace. However, different show that they may have also be a catalyst for the emergence of conflict and even violence.

Electoral violence can be defined as a sub-category of political violence that is primarily distinguished by its timing and motive. It is coercive and deliberate strategy used by political actors – incumbents as well as opposition parties – to advance their interests or achieve specific political goals in relation to an electoral contest. It may take place in all parts of the electoral cycle: in the run-up elections, on the day of elections, in the immediate post-election period. Election-related violence is not limited to physical violence but included other coercive means such as the threat of violence, intimidation and harassment.

As a concept, electoral violence basically has to do with 'all forms of organized acts or threats – physical, psychological, and structural – aimed at intimidating, harming, blackmailing a political stakeholder before, during and after an election with a view to determining, delaying, or otherwise influencing an electoral process'⁴. The importance of this is that electoral violence is multidimensional, having physical, psychological and structural dimensions. The physical elements include assassination of political opponents, arson, looting, shooting, kidnapping and hostage taking, forceful disruption of campaign rallies, armed raids on voting and collating centres, including snatching of ballot papers and boxes at gun point. The psychological dimension relates to official and unofficial actions that create fear in the people, which may be a product of physical violence. These include threats to opposition forces by security agents or through phone calls and text messages. The structural dimension of electoral violence seems much more pronounced, being a product of structural imbalance, including coercion of citizens by government to register or vote, unequal opportunities for political parties and candidates,

1 During the First Republic (1960 – 1972): 1959 (The President was elected by an electoral college); 1965; 1972 (political crisis) Second Republic (1975 – 1991): 1975 (The President was elected by referendum); 1982, 1989 (political crisis) Third Republic (1992/93 – 2009) : 1992/93 ; 1996 ; 2001 (electoral dispute) ; 2006 Fourth Republic (2013 - ?) : 2013

2 During the First Republic (1960 – 1972): 1960; 1965; 1970 Second Republic (1975 – 1991): 1977, 1983 1989 (political crisis) Third Republic (1992/93 – 2009): 1992/93; 1998; 2002; 2007 Fourth Republic (2013 -?): 2013

3 During the First Republic (1960 – 1972): 1972 (during the transition) Second Republic (1975 – 1991): 1975
Third Republic (1992/93 – 2009): 1992; 1995; 1998; 2007; 2010

4 Albert I. O., 2007, Reconceptualising electoral violence in Nigeria. In: Albert, I.O., D. Marco and V. Adetula eds. Perspectives on the 2003 elections in Nigeria. Abuja, IDASA and SterlingHolding Publishers, p. 133.

abuse of power of incumbency, falsification of election results, as well as the politicization of security and electoral officials⁵. It is also evident that electoral violence, like an election itself, is not restricted to election day alone. It can happen before, during and after the elections. Pre-election violence may include acts or threats against electoral stakeholders during voters' registration or electioneering campaigns. Election day violence includes the snatching of ballot papers or boxes, assaults on opposition agents or parties, and harassment or intimidation by security agents. In the aftermath of an election, electoral violence may take the form of violent protests electoral rigging, whether real or imagined, and of the state's deploying its apparatus of force in response to the protest, thereby further fuelling the violence. Electoral violence is a form, perhaps the deadliest form, of electoral fraud, which has been defined as 'clandestine efforts to shape election results'⁶. This can be perpetrated both by the incumbent power holder to avoid defeat and by opposition elements seeking to wrest political power from the governing party. In most cases, electoral violence is targeted at electoral stakeholders such as voters, candidates, party agents, election workers, media and monitors; electoral information such as registration data, vote results, ballots; campaign materials, for example, vehicles and public address systems; electoral facilities such as polling and counting stations; and electoral events, including campaign rallies⁷.

The causes of electoral violence are multifaceted, and can be divided into two broad categories: first, structural factors related to the underlying power structures prevalent in new and emerging democracies, such as informal patronage systems, poor governance, exclusionary politics, and the socio-economic uncertainties of losing political power in states where almost all power is concentrated at the centre; second, factors related to the electoral process and the electoral contest itself, such as failed or flawed elections, election fraud and weak or manipulated institutions and institutional rules governing the electoral process.

The prevalence of electoral violence in Africa, therefore in Madagascar can be a product of a culture of violence inherited from the authoritarian regimes, the resurgence and gradual consolidation of neo-presidentialism, where the president almost approximates the state. The increasing centralization of power in the presidents at the national level and political leaders at other levels of governance tends to heighten political stakes. The result is the unhealthy rivalry and competition for power, since political power has become the main key to all other sources of power. Therefore, the resort to violence. Nothing illustrates this better than the abuse of power of incumbency in an effort to remain in power at all costs, and if all else fail, to impose a surrogate that will continue to defer to the 'good' judgment of the benefactor⁸. The weakness of the economic foundation of democracy can also be a source of electoral violence. Indeed, growth without development and the weak distribution of growth are factors favouring the instability. Madagascar is an example where more than 92% of the population lives on less than \$ 2 per day, the country has experienced political crises after each period of economic growth. Another cause of electoral violence is the weakness of the institutions, political parties, electoral management bodies and the judiciary who facilitate manipulation and corruption. The weakness of the security forces, the politisation and the manipulation of the security forces during the electoral process are factors of electoral violence. It was the case in Madagascar since the first political crisis in 1972 after January's presidential election⁹. The misuse of security agencies to facilitate electoral misconduct portends some serious implications for the nation's security institutions and democratic consolidation and stability. This chapter aims to have a close look at the elections that were followed by violence in the Malagasy context. Several elections won by the incumbent president were contested and followed by episodes of violence (1972, 1989, 2001, 2006). These elections, which were to lead to the consolidation

5 Nwolise Osioma B.C., 2007, Electoral violence and Nigeria's 2007 elections. *Journal of African Elections*, 6 (2), pp. 155–179

6 Lehoucq F., 2003, Electoral fraud: Causes, types and consequences. *Annual Review of Political Science*, 6, p. 233.

7 Höglund K., 2006, Electoral violence in war-ravaged societies: The case of Sri Lanka. Paper prepared for the Workshop on Power-Sharing and Democratic Governance in Divided Societies, Centre for the Study of Civil Wars, PRIO, 21–22 August 2006, p. 8.

8 Omotola S., 2010, « Explaining electoral violence in Africa's 'new' democracies », *African Journal on Conflict Resolution*, Vol. 10, N° 3, p. 64.

9 Ramasy J. F. & Vallée O., 2014, « Transition **électorale** et enjeux sécuritaires à Madagascar », Note de la Fondation pour la Recherche Stratégie, note 01/2014, 20 p. <http://www.frstrategie.org/barreFRS/publications/notes/2014/201401.pdf>

of the regime, failed, as they were followed by electoral violence and led to political crisis. In the light of the thesis that electoral systems, election administration and the management of the electoral process in general have an influence on the democratization process, this article has the objective of analysing this link in the Malagasy electoral context. As such, this article will analyse to what extent the elections are challenging the democratization process.

Section I - Elections and the challenges of Democratization

Madagascar has a long history of multi-party elections since its independence. It is one of the few African countries like Botswana, Mauritius which organized multi-party elections in the first years of its independence. But 10 years after its independence and the presidential election in 1972 a political crisis occurred. The regime will be forced to resign despite his huge victory in the last election. Madagascar will experience other post-election crises mixed with violence, which raises questions about the credibility of these elections (1.1). Moreover, despite the third wave of democratization and the degree of pluralism, elections will not allow the consolidation of democracy or political stability and will be accompanied by electoral violence (1.2).

1.1 The Authoritarian Postcolonial Elections: The Shadows of Democracy

General suffrage was introduced in 1956 in Madagascar. The first political party, the *Parti Social Démocrate* (PSD, Social Democratic Party) headed by Philibert Tsiranana, was formed in 1957. On 28 September 1958 Madagascar held its first national referendum - to determine whether the country should become a self-governing republic within the French community. While nationalists opposed the concept of limited self-rule and preferred direct independence, such as the *Parti du Congrès pour l'Indépendance de Madagascar* (*Antokon'ny Kongresy Fanafahana an'i Madagasikara, AKFM*¹⁰), the PSD advocated for a gradual approach to independence. The latter won the vote, leading to the election of Tsiranana as the Malagasy first president. He was elected by indirect electoral suffrage by an electoral college comprising "the members of the National Assembly, the members of the Senate, the members of the provincial councils and the delegates of the municipal and rural assemblies, elected in these assemblies. This method of voting continued until the constitutional revision of 6 June 1962, which established direct universal suffrage.

The PSD won the majority of the seats in the legislative elections of September 4, 1960 (79 seats and 28 seats for the opposition) and became a dominant party, imposing its rules of the game. This led to the domination of the elite and the personalization of power and to the patrimonialisation of the regime. This is a consequence of the colonial power¹¹. During that period, there were no checks and balances, there were different levels of citizenship, militarization, etc. In the patrimonialisation system, the head of state is like a patron and the citizen a client. In that case democracy can be seen as a big man democracy¹² where clientelism became the rule. The participation of the citizen in public affairs is restricted by the elite and there is no accountability. To ensure the support of various elites (economic, military, religious) and to ensure its position, the ruling elite shares jobs and state resources. This is what Donald Rothchild calls the "hegemonies exchange"¹³ and known as « assimilation réciproques des élites » of Jean-François Bayart¹⁴.

10 This party was after the « Independence Congress », held in Toamasina in May 1958.

11 Young C., 1995, *The African Colonial State in Comparative Perspective*, New Haven, Yale University Press, 356 p. Mamdani M., 1996, *Citizen and Subject : contemporary Africa and the legacy of late colonialism*, Princeton University Press, 353 p. Mbembe A, 2001, *De la Postcolonie. Essai sur l'imagination politique dans l'Afrique contemporaine*, Paris, Karthala, 293 p.

12 Bratton M. & Van De Walle N., 1997, *Democratic Experiments in Africa. Regime Transitions in Comparative Perspective*, Cambridge University Press, Cambridge, p. 233.

13 Rothchild D., 1989, "State-ethnic relations in Middle Africa", in Carter G. et O'Meara P. (eds.), *African Independence: the first 25 years*, Bloomington, Indiana University Press, pp. 71-96.

14 Bayart J-F., 1989, *L'État en Afrique : la politique du ventre*, Karthala, Paris, 439 p.

Presidential elections took place on 31 March 1965, with the reelection of Tsiranana with 97% of the votes. These will be followed on August 8, 1965 by legislative elections which again devoted the victory of the PSD with the obtaining of 104 seats out of a total of 107 seats. The 3 remaining seats returned to the AKFM. The same results characterized the elections on 6 September 1970. These elections illustrate the dominance of the PSD over the whole Malagasy state apparatus which is explained in particular by the method of voting. Indeed, the one-round majority voting favours the ruling party and reduces the representation of small parties.

The 1970 legislative elections will be followed by the victory of Philibert Tsiranana in the presidential election of January 30, 1972. These elections are organized in a context of crisis that will ultimately lead to the end of the regime of Philibert Tsiranana in 1972. This is the first post-colonial crisis. This is a consequence of the events which took place in the city of Tulear in April 1971¹⁵. MONIMA activists from Monja Jaona have attacked various police stations. Yet the results of the parliamentary elections show that the voters of this part of the island voted 99% for the PSD. But this is not surprising as most elections during the first Republic are tainted by fraud. The gendarmerie will be sent to the town to restore order¹⁶. The intervention of the army and more precisely the gendarmerie will allow President Philibert Tsiranana and the PSD to consolidate their already wavering power. Despite the re-election of Philibert Tsiranana in January 1972 with 99.7% of the votes, a general strike will take place where acts of violence will be perpetrated by the security forces¹⁷. The deportation to Nosy Lava penitentiary of 395 students triggers on May 13 a vast popular movement (100,000 people in the streets of Antananarivo). The Forces Républicaines de Sécurité (FRS) fired on the crowd, which led to violent reactions (burning cars, barricades, destroying sidewalks for making projectiles, attacking the national radio, 'city Hall, ...). These events will make "only about forty" dead and 100 wounded, mainly on the side of the demonstrators¹⁸.

On May 18, Philibert Tsiranana resigned and handed power to the chief of staff of the armed forces, General Gabriel Ramanantsoa, thereby inaugurating a transition period (1972-1975). A referendum was held on 8 October 1972 which gave rise to the Constitutional Law of 7 November 1972 and established a provisional regime headed by General Gabriel Ramanantsoa for a term of office of 5 years. The "yes" received more than 95% of the votes against less than 4% for the "no". The Military Directorate was replaced by a Supreme Council of the Revolution in 1975 and a referendum will be held in December of the same year. The people of Madagascar approved a Charter of Socialist Revolution or Boky Mena (the Red Book) and the Constitution of the Second Republic, establishing a Democratic Republic of Madagascar (République Démocratique de Madagascar, RDM) under the President of Didier Ratsiraka.

This regime will have authoritarian accents. It will still organize elections but that are far from free and transparent. Legislative elections were convened in 1977, in which only political parties belonging to the Front National pour la Défense de Révolution (FNDR) could participate¹⁹. The central pillar of the FNDR, the *Avant Garde de la Révolution de Madagascar* (AREMA²⁰) of Didier Ratsiraka will lead with 112 seats on the 137 components the National People's Assembly. The other seats are distributed as follows 12 for the AKFM, 7 for the VONJI and 2 for the UDECMA / KMTP. As the PSD, the AREMA will be a dominant party. The AREMA party was created after Didier Ratsiraka was in power. The fact that parties are created after the establishment of its leader in power is a phenomenon that will characterize the Malagasy political landscape. For example, the party of Marc Ravalomanana, the TIM, the one of Andry

15 Althabe G., 1972, « Les manifestations paysannes d'avril 1971 », *Revue française d'Études politiques africaines*, n° 78, juin, pp. 71-78.

16 The repression carried out by the gendarmerie and the militias of the governmental party took a considerable scale: 2,000 killed, 5,000 prisoners, generalized torture, villages and crops destroyed; In Tananarive, a dozen MONIMA militants were imprisoned. Voir Althabe G., 1981, « Les luttes sociales à Tananarive en 1972 », *Cahiers d'études africaines*, 4^{ème} trimestre, pp. 414.

17 Althabe G., 1981, *op. cit.*, pp. 407-447.

18 Marcus R. "Political change in Madagascar: Populist democracy or neopatrimonialism by another name", Institute for Security Studies, Pretoria, *ISS paper* 89, www.iss.co.za, August 2004.

19 The members of the FNDR are: UDECMA-KMTP ; VONJY ; AKFM-KDRSM ; MONIMA ; AREMA.

20 *Antoky ny Revolisiona Malagasy* was formed in 1976. In 1994, AREMA will become Alliance pour le Renouveau de Madagascar.

Rajoelina, the TGV and of the current president Hery Rajaonarimampianina, the HVM were created after their leaders were in power. This phenomenon shows the weakness of a political party culture and the lack of political ideology and programs. These parties are constituted by members of the former ruling parties which illustrates a practice of transhumant elites²¹.

In 1982, the first presidential elections of the RDM will take place where Didier Ratsiraka will win with about 80% of the votes. New legislative elections were held in 1983, when AREMA won 115 seats out of the 134, now comprising the National People's Assembly. The AKFM will win 8 seats followed by the VITM with 6 seats, the MFM / MFT with 3 seats and finally the MONIMA / KM with 2 seats. A new presidential election will be held in 1989, Didier Ratsiraka will be re-elected in 1989 with 62% of votes, but we are far from the 80% of the previous elections. This election will be followed by legislative elections in 1989, where AREMA will have 120 elected members out of 137. Other elected representatives are: 7 for MFM, 4 for VONJY, 3 for AKFM-Nouveau, 2 for AKFM and 1 for MONIMA. The regime is losing ground if we refer to the presidential election, where the score is less important than in the past.

International events between 1989 and 1991, that is the collapse of communism in Europe and the end of the Cold war, have obvious repercussions on Madagascar. Liberal economic reforms were producing some positive results and between 1988 and 1990, economic growth overtook population growth but the population was not taking advantage of it. This phenomenon of lack of sharing wealth and unequal distribution of resources represents a trigger of electoral violence. Especially since the opposition was demanding a transitional administration and a national conference like in Benin. Challenging the outcome of the March 1989 presidential election was also the starting point for a broad protest movement. Pushed to liberalize political life, the President restored the freedom of creation of the political parties in 1990. However, this did not stop the movement which federated under the name of "*Forces Vives*". The Council of Christian Churches, the FFKM, offered its services as a mediator which was refused by the government. On 1 May 1991, the *Forces Vives* called for an unlimited general strike, aimed at forcing Didier Ratsiraka to accept a transitional government and general elections. Faced with the refusal of the regime, the hardcore opposition, *Forces Vives Rasalama*, has appointed a shadow government on July 16, forcibly taking over government ministries to install its own appointees. Didier Ratsiraka has also appointed a new Prime minister and a new government. On August 10, 1991, the presidential guard opened fired on a crowd of demonstrator causing several deaths. The proclamation of the Confederate States in Toamasina took place on 14 August 1991, but this attempt to split the country would not succeed. Indeed, on October 31, 1991, the Convention of Panorama, an agreement between the government, the opposition and the FFKM, established a period which should not exceed 18 months. The stakeholders had key positions in the new transitional administration. The leader of the *Forces Vives*, Albert Zafy, was proclaimed president of the *Haute Autorité de l'Etat* (HAE, High State Authority) and Didier Ratsiraka remained President of the Republic but with less power.

In 1992, during a National forum, a Constitution and an electoral code was adopted. This forum ended with violence between the *Forces Vives* and the *Fédéralistes* in the capital and in other cities. The new constitution was approved by referendum in August 1992.

1.2 Electoral violence and the weakening of an emerging democratization

In the early 1990s, a "wave of democratization" reached the African continent. More than two decades later, the results of the so-called "third wave of democratization" are more than mitigated. These democracies can be called "electoral authoritarian" or "competitive authoritarian" regimes (Levitsky and Way 2002, 2010) where competition is real, but unfair. In many cases, elections and the entire electoral process is manipulated by the elite holding most of the power, with their primary goal being to maintain

21 Ramasy J. F., 2014, « Partis politiques postcoloniaux et implémentation de la démocratie à Madagascar », *Revue Annales de la Faculté des Lettres et Sciences Humaines*, n° 15, Université d'Antananarivo, Madagascar, Acte du Colloque International, « Madagascar : 50 ans d'indépendance », Centre de Recherche et d'Études sur les Constructions Identitaires (CRECI), novembre 2010.

their positions and privilege. As a matter of fact, although multi-party elections have clearly become a regular institution in Africa, there are still many doubts about the value and the quality of these elections.

In Madagascar, the constitutional referendum of 1992 for the adoption of the constitution of the Third Republic opened the door for multi-party elections. Thus, four presidential elections (1992/93, 1996, 2001, 2006), four legislatures elections (1993, 1998, 2002, 2007) and four referendums (1995, 1998, 2007, 2010) will be held. Moreover, Madagascar has the particularity of having experienced a triple electoral transition (1993, 1996, 2001). Apart from the first two presidential elections and the 2006 election, which were smooth and generally accepted, the 2001 election was followed by a post-election crisis due to contestation of results.

In February 1993, Albert Zafy was elected against the incumbent president Didier Ratsiraka who accepted the results. These elections were the first democratic ones with 8 candidates. The Zafy period was marked by economic decline, corruption and political instability. On September 17, 1995, Albert Zafy arranged a constitutional referendum intended to re-establish a strong executive presidency with the possibility of choosing his prime minister because previously the latter was chosen by the National Assembly. However, Zafy was impeached on 26 July 1996²² and charged with violation of the Constitution and abuse of power. The 1996 election was an exercise in banality, with the choice between the disgraced Zafy, the interim president Norbert Ratsirahonana, and Didier Ratsiraka running as a new kind of democrat and 12 other candidates. Ratsiraka won after an ideological lifting, changed the constitution through popular referendum in 1998²³, and set out to consolidate much of the character of the Second Republic. The AREMA will win all the elections during this period and dominate the political life using authoritarian practices.

The 2001 presidential election, held on 16 December with 6 candidates, gave rise to a post-election conflict between acting president Didier Ratsiraka and Marc Ravalomanana, the mayor of Antananarivo and a self-made millionaire. The conflict occurred after the promulgation of the results of the first round by the Minister of Interior and confirmed by the High Constitutional Court on 25 January 2002, where Didier Ratsiraka was credited with 40.61% of the votes and Marc Ravalomanana of 46.44%. However, Marc Ravalomanana called for a recount as the results at his disposal were different from the ones announced by the institutions and confirmed his victory as from the first round. The government refused and a general strike began in the capital. The situation turned into a low-intensity civil war.

Marc Ravalomanana claimed victory and denounced the results and declare himself president in February. The situation degenerated between his and Ratsiraka's supporters. Although Marc Ravalomanana gained the control of the capital, Didier Ratsiraka moved his government to Toamasina. The electoral violence was employed by both the ruling and opposition forces, by using military and militia forces²⁴. This resulted in a "factionalisation" of the Malagasy security forces²⁵. The armed clash between the two sides resulted in several hundred dead. The misuse of security agencies to facilitate electoral misconduct portends some serious implications for democratic consolidation and stability.

A recount of the election in April 2002 declared Marc Ravalomanana the winner but Didier Ratsiraka rejected the results. Forces supporting Marc Ravalomanana gradually won control of most of the country by early July when Didier Ratsiraka fled the country. After six months of social, political and economic conflict including violence, threat and harassment, Ravalomanana was recognized as president of the

22 Rajaona A. R., 1998, « Un événement constitutionnel inédit à Madagascar : la destitution du chef de l'État d'un régime parlementaire par l'évocation de sa responsabilité politique », *Revue française de Droit constitutionnel*, n° 34, pp. 365-376.

23 The number of the electors was 6,453,612 for the presidential election in 1996 and fell to 5,234,198 for the 1998 referendum. The manipulation of the number of voters is a means to ensure victory.

24 Ramasy J. F. & Vallée O., 2014, *op. cit.*

25 Rabenirainy J., 2002, « Les forces armées et les crises politiques (1972-2002) », *Politique Africaine*, n° 86, *Madagascar, les urnes et la rue*, Karthala, Paris, juin, pp. 86-102. You can also consult Ramasy's articles on the Malagasy armed forces.

Republic. These elections could have been seen as consolidation of democracy but the electoral violence that has occurred was a major source of democratic instability with palpable threats of deconsolidation.

The African mediation led by the then president of Senegal, Abdoulaye Wade, took place with different agreements²⁶ and finally pushed for a legislative election in 2002 as peace-building strategy like in 2013. The AREMA did not participate in these elections, won by the TIM of Marc Ravalomanana.

Although he was reelected in 2006, and his administration did usher in economic progress, his domination of both the political and economic spheres led to conflict and political unrest. The process of democratization was stopped by the 2009 coup. Violence occurred in 2009 following demonstrations, led by the mayor of the capital Andry Rajoelina, aimed at the resignation of President Marc Ravalomanana. The buildings of the national television and radio were burned as well as various shops (especially those of the Tiko group belonging to Marc Ravalomanana). Moreover, during a march on the presidential palace on February 7, 2009, the Presidential Guard fired on the crowd, causing the death of about thirty people and about 200 wounded. Like in 2002 the security forces were instrumentalised by the politicians²⁷. A group of soldiers at the Camp Capsat mutinied in March 2009 and stormed the presidential palace.

President Ravalomanana relinquished control to a military directorate, who then gave the power to Andry Rajoelina, the mayor of Antananarivo in March 2009. The latter became president of the so-called High Authority of the Transition. The parliament was replaced by the Conseil Supérieur de la Transition (CST) and the Congrès de la Transition (CT). Marc Ravalomanana was forced into exile to Swaziland, and then to South Africa. The unconstitutional change of government was heavily criticized by the African Union (AU) and the Southern African Development Community (SADC), and much of the international community (United States, European Union, etc.), aside from France, imposed sanctions. Consequently, Madagascar was deprived of foreign budget support. In September 2011, 11 political parties signed a roadmap calling for presidential and legislative elections. These elections took place in late 2013. Marc Ravalomanana and Andry Rajoelina both signed an agreement stating they would not stand as candidates.

The 2013 elections were seen as a way to restore democracy but the fact that politicians who participated in the coup were also candidates was not following the principals of the African Charter on Democracy, Elections and Governance. The candidate supported by Rajoelina, Hery Rajaonarimampianina, defeated Ravalomanana's favorite, Jean-Louis Robinson, garnering 53.5% of the presidential vote on 20 December 2013. He was inaugurated on 25 January 2014. In July 2015 local elections were held, the HVM (Rajaonarimampianina's political party) won more than half of the constituencies, the TIM was at the second position, Lalao Ravalomanana (Marc Ravalomanana's wife) was elected in the capital, Antananarivo, the MAPAR was in the third position and won the major cities (Antsiranana, Mahajanga, Toamasina). In December, the HVM won the majority in the senatorial elections.

The 2013 elections (presidential and legislative) have ended the protracted transition (2009-2013) and can be seen as re-establishment of democracy but also as legitimization of the coup. The 2015 local and senate elections gave a majority to the political party, HVM and brought some still fragile political stability (there were 3 Prime ministers since 2014). But these elections were criticized both by national and international observers. The latter did not organize formal observer missions but published press releases to address especially the lack of secrecy of the vote, intimidation and vote buying by the party in power and some technical problems due to the short preparation period given to the newly established electoral commission. Indeed, it has been stated that during the senatorial elections, the ruling party flagrantly exploited the advantages of incumbency, abused State resources, and used physical intimidation on voters in the pursuit of victory while defeated candidates and parties

²⁶ Dakar I and Dakar II.

²⁷ Ramasy J. F., 2012, " Militaires et système politique", in Randrianja S. (dir.), *Madagascar, le coup d'État de mars 2009*, Karthala, pp. 67-96.

denied the legitimacy of the vote²⁸. These elections can be labelled as the « authoritarian resurgence » and although they ensured a political basis for the ruling party, they are not a guarantee for sustained stability as shown by past similar experiences.

In conclusion, despite the regular organization of elections, Madagascar continues to be an illiberal democracy or a violent democracy where a strategy of violence is implemented from the perspective of maintaining power or conquering it, and where the political openness of the regime is weak²⁹. The power is in the hands of the transhumant elite who operates control over state resources and the electoral process. As such, the authoritarian elections allow recycled elites to maintain power: *"A ruling elite forced to liberalize will tend to prioritize its survival to the detriment of the state as an entity capable of provisioning society and enhancing its legitimacy"*³⁰.

The multiplication of the political parties after the third wave of democratization did not play in favour of the implementation of democracy³¹. Most of the political parties are characterized by personalization and by the domination of a transhumant elite. The weakness of these political parties is also one of the underlying causes of electoral violence. We can also add the weakness of the institutions in charge of the electoral process, which facilitate manipulation and corruption. For example, in the 2001 president election, the incumbent president Didier Ratsiraka removed some members of the High Constitutional Court before the election as to maintain control over the institution³².

From its political history, Madagascar looks like a failed state, or an anocracy with a high level of corruption, weak public services, absence of wealth distribution and a virtual central authority combined with a lack of legitimacy. To better understand the role of the electoral institutions in electoral conflict, the next chapter will have a close look at their nature and functioning.

Section II – The (Im) Partial Role of the Electoral Management Bodies in Electoral Conflict

The electoral management bodies (EMB) play a significant role in the quality of elections and in avoiding electoral violence. Effective electoral governance requires impartiality, independence, efficiency, professionalism and transparency of the EMB to avoid suspicion and mistrust among political actors. The mode of organization, the composition, and the funding of EMBs is a means of building trust among all political actors and citizens.

In Madagascar, elections under the first and second Republic were organized by the Minister of Interior. This made it easy to manipulate the institutions as to serve the interest of the incumbents and to disadvantage the opposition. The politics of instrumentalisation contributed to the rejection of the results and as such led to electoral violence as mentioned in the above section. In this section, we will see that the institutions have favoured the ruling party (2.1) and have acted in a more independent and impartial manner with the third wave of democratization, combined with the establishment of independent electoral institutions (2.2).

28 Gyimah-Boadi E., 2015, "Africa's Waning Democratic Commitment", *Journal of Democracy*, Volume 26, Number 1, January 2015, p. 103.

29 Collier D. et Levitsky S., 1997, "Democracy with Adjectives: Conceptual Innovation in Comparative Research", *World Politics*, vol. 49, n° 3, pp. 430-451.

30 Katumanga M., 2005, "A City Under Siege: Banditry & Modes of Accumulation in Nairobi, 1991-2004", *Review of African Political Economy*, 106, p. 511.

31 Ramasy J. F., 2010, *État et implémentation de la démocratie dans les îles du Sud-Ouest de l'océan Indien : le cas de Madagascar et Maurice*, Thèse de Science Politique, Université Toulouse 1 - Capitole, France et Université de Toamasina, Madagascar, 780 p.

32 Décret de nomination n° 2001-1080 du 22 novembre 2001. The Administrative Chamber of the Supreme Court invalidated Decree no. 2001-1080 of 22 November 2001 on formal defects by ruling No. 4 of 16 April 2002 and reinstated the former members of the High Constitutional Court.

2.1 The Manipulation of the Institutions

During the first and second republics, elections were organized by the Ministry of the Interior and the *Conseil Supérieur des Institutions*, which became the High Constitutional Court, that oversaw the proclamation of the results as well as electoral dispute. From the Third Republic, a new institution was set up, the *Conseil National Electoral* (CNE, National Electoral Council). As mentioned earlier, the first institution to have organized and supervised the elections in Madagascar was the Ministry of Interior. This created general suspicion among political actors as the administration was seen as biased and manipulating results in favour of the incumbent party/candidate. This contributed to the violent protest of the election outcome in 1972 and 1989.

One of the responses to build trust among electoral stakeholders and avoid post-election violence due to the contestation of results, was the creation of the CNE. As such, the CNE was established in the wake of the 1992³³ constitutional referendum as the “moral guarantor of the authenticity of the vote and the sincerity of the vote”. It was composed of 9 members, representing civil society. Its role was to advise and assist the administrators of the electoral system (Ministry of Interior). On the other hand, it was in charge of the control and the supervision of the work related to the electoral operations (revision of the electoral lists, printing of the ballots, respect of the deadlines, ...). The CNE could also take legal action, either by seizing itself *ex officio* or after a referral of voters, to prosecute any contravention of the legal provisions relating to electoral operations.

Following reforms in 2003 and 2004, the CNE was composed of seven members chosen “because of their competence and experience in election³⁴”: a member appointed by the President of the Republic; the mediator of the Republic or one of his deputies who is an *ex officio* member; a member appointed by the Minister of the Interior; a member appointed by the Bar Association; a member appointed by the association of journalists; a member appointed by the First President of the Supreme Court; a member appointed by the Prosecutor General of the Supreme Court. Members shall be sworn in before the Supreme Court before taking office. Their mandate is five years’ renewable once.

However, the fact that the CNE was “accountable to the Prime Minister” constituted an obstruction to its independence. It was therefore under the dome of the ruling party. Indeed, the CNE had to be convened in session by a decree taken in Council of Government; Its budgetary allocation was fixed by the Prime Minister on the budget of the Prime Minister; The responsibility of the CNE before the Prime Minister implied the obligation to draw up a report. In addition, the CNE was chaired by the representative of the President of the Republic. Similarly, the possibility of independent operation of the local offices of the CNE (where a representative of the Minister of the Interior was sitting) remained very hypothetical. In such a situation, how could the CNE guarantee the sincerity of the vote and allow, as far as possible, a free and transparent election? As for the organization of the CNE, an operational extension on the ground was set up by the establishment of local electoral liaison offices (BLEs) in each district chief town. From 2003 onwards, the CNE was represented at the municipal level through communal electoral correspondents (CCE). Thanks to the extension of its powers and scope, the CNE had a permanent administrative secretariat. The latter was responsible for assisting the national advisers in their duties and for managing the institutional memory of the CNE, whose work (litigation files, relations with other institutions and national and international bodies, Operation of archives) required regular treatment and monitoring. It was headed by a permanent secretary with the rank of director general of ministry. The latter was assisted by an assistant who had the rank of a director of ministry. Both were appointed to the Council of Ministers on a proposal from the CNE. The final word rested again with the executive, which had an impact on the independence of the CNE.

33 Décret n°92-895 du 2 octobre 1992 fixant l'organisation et les modalités de fonctionnement du conseil national électoral.

34 Article 2 du décret n° 2002-1225 du 11 octobre 2002, modifié en 2003 et 2004, portant sur l'organisation et le fonctionnement du Conseil National Électoral.

The CNE may be seized by the electors concerning the offenses committed by a candidate or a list of candidates or by the members of the polling station or by the officials or auxiliaries of the Administration during the electoral operations or on the work concerning the voter's lists, exclusively in the polling stations where the claimants are registered and voted. To this end, the CNE replaces the voters. It considers the referral to the competent courts and the procedures relating to offenses in electoral matters. In addition, it is empowered to take proceedings and to bring before the competent courts: request for denunciation; a motion for protest; a motion to contest; a request for repression; an appeal in dispute of the elections. To this end, it has the right to sue.

However, despite the 2003, 2004 reforms and the different functions of the CNE, the CNE suffered from a lack of independence and as such the institution could not play the role of building trust in the electoral process by the different political actors. This explained why during the 2009-2013 transition period, an independent electoral commission was established to dispel suspicions of bias and to contribute to the organization of elections that could be accepted by the different opposing parties as to avoid post-electoral violence due to the non-acceptance of the results.

2.2 The Independence of Electoral Institutions for the 2013 Elections at Stake

Several electoral institutions were created during the transition. An independent electoral body, the National independent electoral commission (Commission Electorale Nationale Indépendante, CENI) was created in 2010³⁵. The creation of this institution was one of the objectives of the High Transitional Authority (HAT)³⁶ because the former electoral body was not independent³⁷. The problems of legitimacy and credibility (able to engender public confidence in the electoral process or organize transparent and credible elections) are embedded in the institutional history of electoral bodies in Madagascar.

Although by law the CENI was meant to be independent, in practice there were also some major shortcomings to the respect of its independency. As a matter of fact, the CENI was set up in a non-transparent way³⁸ and the politicisation of the CENI was denounced as its members were seen as HAT's members. There were 16 members instead of 19 members from civil society, political parties and administration³⁹. The president of the CENI was the lawyer Yves Hariniaina Rakotomanana. The fact that the 3 *mouvances*⁴⁰ did not appointed their members affected the impartiality of the CENI and the acceptance of its decisions. Although the article 5 of the Decree on the CENI said that there should be 7 members from political parties: 3 from the ruling party; 3 from the opposition; 1 from the others political parties, in practice, most of them were from the ruling party. Under these conditions, organizing free and fair elections accepted by all stakeholders became a challenge. The CENI organized a constitutional referendum on November 17, 2010⁴¹ and a new Constitution was adopted by 74,19%⁴² of the votes.

35 On 11 March 2010, the Council of Ministers adopted an electoral code and created the CENI. Décret n°2010-120 fixant l'organisation, le fonctionnement et les attributions de la Commission électorale nationale indépendante.

36 Haute Autorité de la Transition (High Transitional Authority)

37 The elections were organized by the Interior minister and the Conseil National Electoral.

38 Crisis Group, 2010, *MADAGASCAR: CRISIS HEATING UP?* Africa Report N°166 – 18 November 2010, p. 6.

39 There were 16 members instead of 19 members (art 5 of Décret n°2010-120 fixant l'organisation, le fonctionnement et les attributions de la Commission électorale nationale indépendante.). The members from the civil society are : RASOATSINAMPOIZINA AUBIERGE SIDONIE ; BRUNO RAKOTOARISON ; Mamy Auguste ANDRIANIRINA ; Marie Gisèle RANAMPY ; Hanitrinala RAFOLISISOA ; Hary Tiana RALEVASON ; James RAMAROSAONA ; Yves Herinirina RAKOTOMANANA ; Gervais TAHINDRO ; Henri RAKOTOSON. The members from the administration are: JEAN; Olivier Sylvère ANDRIANARISATA. The members from the political parties are: Fanomezantsoa RAKOTONIRINA; Fredon Armand RATOONDRAJAO; Frediss Alvin RAHERISON; Maria Sylvie RAHARINARIVONIRINA. <http://www.demokrasia.net/politique-madagascar/dossier/1362-madagascar-ceni-quatre-femmes-la-majorite-a-la-societe-civile-et-les-derives-de-ravalomanana.html>

40 Ravalomanana, Ratsiraka and Zafy.

41 The referendum was postponed several times. During a national conference held in April 2009, the referendum was initially set for September 2009. It was postponed for August 2010.

42 <http://mjp.univ-perp.fr/constit/mg2010ref.htm> or <http://aceproject.org/ero-en/regions/africa/MG/madagascar-results-of-the-constitutional/view>

However, the process was not accepted by political parties outside of the HAT like the TIM⁴³ as it was seen as a unilateral referendum.

After several mediation efforts, the SADC Roadmap was adopted in September 2011 and proposed the set-up of a more inclusive and impartial electoral body. The CENI was replaced by the CENI-T (National independent electoral commission for the Transition)⁴⁴. 21 new members were designed by the political parties⁴⁵ who signed the Roadmap and by civil society⁴⁶ and the administration⁴⁷. The new President⁴⁸ was Béatrice Atallah⁴⁹ who was member of the cabinet of the Finance Minister Hery Rajaonirampianina. She was also on the board of Madarail⁵⁰. There were some doubts about her impartiality because of her close links with the HAT⁵¹. But the fact that she has been a member of the National Electoral Commission from 2002 to 2009 showed her experience in electoral matters and played in favour of her credibility. However, after the 2013 general elections, the composition of the CENI-T changed slightly with the nomination of its President, Beatrice Atallah, as the Minister of Foreign Affairs. This nomination affected the credibility of the institution. The 2015 Senate Elections were the first elections organized by the new permanent election management body, the National, Independent Electoral Commission (CENI), inaugurated on October 29, 2015 (CENI: loi n°2015-020 du 19 octobre 2015). The CENI is composed by 9 members (1 president, 3 vice-presidents, 2 rapporteurs, 3 advisors) out of which two are of the former CENI-T and the President of the actual CENI was president of the CENI in 2010. The other commissioners occupy the mandate for the first time but have for some of them experience in elections. After having organized Senate elections that were criticized by national observers and political opposition, mostly accusing the party in power of intimidation and corruption, the credibility of the newly established CENI was questioned and the institution is deploying efforts to build trust and confidence among electoral stakeholders. However, as for the other versions of this institution the real challenge is its independence from the executive. The fact that the president of the Republic appoints one of the nine members of the commission could be a challenge for the independence of the commission as opposition parties do not have their representative. The other members are appointed by the National Assembly, the Senate, professional bodies and civil society. Another challenge concerning the independence of the electoral commission is the way how its budget is attributed by the government. The government is somehow controlling the actions of the CENI using financial dependency as a tool.

43 Tiako Madagasikara, the political party of Marc Ravalomanana

44 Commission Electorale Nationale Indépendante pour la Transition. Law n°2012-004 du 1^{er} février 2012, http://www.cenit-madagascar.mg/dossier/Loi_2012-004_CENIT.pdf

45 The Zafy mouvance have not designed his member. The other members (9) are : ANDRIAMANASINA (AREMA); FELICE Adolphe (Autres Sensibilités); MAMY Dieudonné (ESCOPOL); MARIMBELOSON William Ladislas (HPM); RAHARINARIVONIRINA Maria Sylvie (MDM); MASIMANA Manantsoa (MONIMA – UAMAD); ANDRIAMIHANTA Fanomezantsoa Benjamin (Mouvance RAVALOMANANA); JEAN (TGV); MANJANY Bienvenu (UDR – C)

46 10 members are from the civil society : RANDRIAMANANTENASOA Martin (NGO working in election observation); RASOATSINAMPOIZINA Sidonie Auberge (NGO working in election observation); RANDRIARIMANANA Charles (NGO working in election observation); ANDRIANAIVO Dorà Josée (NGO working in election observation); RAFOLISISOA Hanitrianina (NGO working in human rights); RAKOTONDRAZAKA FANOMEZANA Espéré (Ordre des Journalistes); RALAIAIRILIVA Ndrina Mamy (Corps des Administrateurs civils); RANDRANTO André (Bar Association); TAHINDRO Gervais (Law Professor, Public University); RAKOTOSON Henri (Corps de la Magistrature).

47 2 members from the Administration: SAMBO (Cadre de l'Administration du territoire) ; RASOLO Harinomeny Rafanatera (Ministry of Decentralisation).

48 The President can be a member or not of the CENI-T (art 39 Law n°2012-004 du 1^{er} février 2012)

49 She was elected with 14 vote against Philippe Andrianjanahary during the second round. In the first round there were 3 others candidates, Ndrina Mamy Ralaiairiliva (he will be the Vice-President of the CENI-T), André Rasolo, Hary Tiana Ralevason. "Madagascar : Béatrice Atallah à la présidence de la Commission électorale indépendante", March, 25, 2012, L'Express, <http://www.scoop.it/t/akory/p/1486382888/2012/03/25/madagascar-beatrice-atalah-a-la-presidence-de-la-commission-electorale-independante>

50 It is a train company owned by Mamy Ravatomanga who is closed to Andry Rajoelina and Hery Rajaonarimampianina. Mamy Ravatomanga has presented Hery Rajaonarimampianina to be minister of Finance. <http://www.tananews.com/asides/beatrice-atalah-de-la-ceni-t-nest-peut-etre-pas-si-neutre/> and <http://www.midi-madagasikara.mg/a-la-une/2016/01/18/andry-rajoelina-cest-mamy-ravatomanga-qui-ma-presente-hery-rajaonarimampianina/>

51 Divay P., 2012, "MADAGASCAR, un peu d'infos sur le CENIT et BEATRICE ATTALAH", <https://blogs.mediapart.fr/philippe-divay/blog/041212/madagascar-un-peu-dinfos-sur-le-cenit-et-beatrice-atalah>

The other institution in charge of elections is the High Court⁵². The composition of the court has been the same for several years⁵³. That could be a sign of stability but the High Court has always taken decisions in favour of the incumbent regime. It has accepted the result of the referendum despite the lack of credibility of the electoral process and non-acceptance by the opposition parties. Therefore, the institution was perceived as partial and with the signature of the Roadmap a Special Electoral Court (CES) was created within the High Court, on April 4, 2013⁵⁴, to deal with electoral issues⁵⁵. The CES counted 9 members⁵⁶ and its President was the same as the one of the High Court, Jean Michel Rajaonarison⁵⁷. The latter caused again a challenge in terms of the independence of the institution. This court was contested when it accepted the application of Lalao Ravalomanana, Didier Ratsiraka and Andry Rajoelina for the presidential election on May 3, 2013. These applications were against the law and the political agreements.

Following the pressure of the international community, a second CES was created on August 9, 2013⁵⁸. The new CES counted 19 members⁵⁹ chosen by the political parties who signed the Roadmap (9⁶⁰), by the High Court (1⁶¹), by the public universities (1⁶²), by the different branches of the judiciary (6⁶³) and by the administration (1⁶⁴). The Zafy mouvance did not nominate his member. François Rakotozafy was elected president of the Special Court⁶⁵. The institution was politically motivated and half of the members (9) were chosen by the political parties. The politicisation of the institution was a potential source of conflict and contestation after the election. In general, the judiciary remains under the control of the Ministry of Justice, and reports of corruption in the judiciary continue. Efforts are underway to address this problem. The court system has a large backlog of cases, a fact that contributes to excessive investigative detention.

The Malagasy context shows clearly that the independence of electoral management bodies is at stake. Indeed, during the transition, the Malagasy politicians have manipulated the legal framework to set up electoral institutions at their advantage. Consequently, credibility and transparency of the electoral

52 Haute Cour Constitutionnelle

53 M. Rajaonarivony Jean-Michel, Président ; M. Imboty Raymond, Haut Conseiller-Doyen; Mme Rahalison Razoarivelo Rachel Bakoly, Haut Conseiller ; M. Rabenindrainy Ramanoelison, Haut Conseiller ; M. Andriamanadraibe Rakotoharilala Auguste, Haut conseiller ; Mme Rasamimanana Rasoazanamanga Rahelitine, Haut Conseiller ; M. Rabehaja fils Edmond, Haut Conseiller ; M. Rakotondrabao Andriantsihafa Dieudonné, Haut Conseiller, Mme Dama Ranampy Marie Gisèle, Haut Conseiller et assistée de Maître Ralison Samuel Andriamorasoa, Greffier en Chef.

54 Loi n°2012-014 portant sur la creation d'une Chambre Spéciale dénommée "Cour Electorale Spéciale" (CES) au sein de la Haute Cour Constitutionnelle.

55 Article 11 of the Roadmap.

56 8 of them were elected by a panel of magistrates: **Bertholier Edson Ravelontsalama; Emile Rahoerason ; Boanary Raveloarijaona; Solohery Norojaona Razafimandimby; Norovololona Razafindrakoto; Elisabeth Harinoro Robinson; Perline Andrianoromalala; Philippe Andrianjanahary.** <http://www.madagate.org/politique-madagascar/dossier/3157-madagascar-elections-2013-mise-en-place-de-la-cour-electorale-speciale.html>

57 "Madagascar: mise en place officielle de la Cour électorale spéciale", <http://www.afran.info/francais/modules/news/article.php?storyid=8300>

58 It was adopted during the Minister council <http://www.madagate.org/communiquedeclaration/3472-madagascar-elections-noms-des-membres-de-la-nouvelle-cour-electorale-speciale.html>

59 <http://www.madagascar-tribune.com/Les-membres-sont-connus,19013.html>

60 Augustine Elysée Peliarimanana (magistrate désignée par le HPM) ; Marie Gisèle Ranampy (magistrate désignée par l'UDR-C) ; William Befouruoack (magistrat désigné par le MDM) ; Arsène Rajerison (magistrat désigné par la Mouvance Ravalomanana) ; Jean Marie Ramangason (magistrat désigné par l'Arema) ; Félicien Rasiviarison (magistrat désigné par le TGV) ; Josoa Clément Razafindrabe (magistrat désigné par Les As) ; Tuna Serge Lucky - Randrianatsoa Mong Wai (magistrat désigné par le Monima) ; Ken Anjararison, avocat désigné par l'Escopol)

61 Andriantsihafa Dieudonné Rakotondrabao (magistrat désigné par la HCC)

62 Alisaona Raharinarivonirina (enseignant chercheur désigné par le Collège des présidents des six Universités de Madagascar)

63 Rondro Lucette Rahelimanantsoa, magistrate élue de l'ordre financier) ; Mamy Jaona Andriamampandra (magistrat élu de l'ordre administratif) ; Andrianiana Rabarisoa (magistrat élu de l'ordre administratif) ; Georges Merlin Rasolonandrasana (magistrat élu de l'ordre administratif) ; Herilaza Imbiki (magistrat élu de l'ordre judiciaire) ; François Rakotozafy (magistrat élu de l'ordre judiciaire)

64 Clermont Gervais Mahazaka (élu par les administrateurs civils)

65 " François Rakotozafy à la tête de la Cour électorale spéciale de Madagascar", Splate Africa, August 13, 2013, <http://fr.starafrika.com/actualites/francois-rakotozafy-a-la-tete-de-la-cour-electorale-speciale-de-madagascar.html>

process are fragile. In this context of a “politically manipulated” electoral body, the stage is set for flawed elections.

Section III – Conclusions and Recommendations

3.1 Conclusions

Madagascar has seen several multi-party elections. Although the country has a history of frequently held elections, the regimes elected in the run-offs, tend to be hegemonic, as one party “takes it all” and installs authoritarian governance practices. There were episodes of electoral violence after the presidential election in 1972, 1989, 2001, 2006 which resulted in the collapse of public order, the mobilization of power outside the institutions and the seizure of power through public demonstrations and a coup d’état in 2009. Among the factors leading to electoral violence are the authoritarian governance practices inherited from the colonial State; the nature of the African state and its politics; the weak economic foundations of the democratization process, including pervasive poverty; the weak institutionalization of democratic architectures, particularly political parties, EMBs, the judiciary and the security forces and the lack of credibility and transparency in the organization of the electoral process. These elections could have been consolidation of the regime but the electoral violence that occurred was a major source of democratic instability with palpable threats of deconsolidation.

Elections are one of the conditions of democracy⁶⁶. The quality of the elections is essential for the implementation of democracy and elections should be credible, transparent and regular. In these conditions, the citizens, organized in political parties could access the power to the extent that citizens have their civil and political rights⁶⁷. If elections were held this way, Madagascar would not be an electoral fallacy where people are voting but without a choice and be part of the choiceless democracies⁶⁸.

After the third wave of democratization, there were 5 presidential elections⁶⁹ in Madagascar and 5 legislatives elections⁷⁰. At the same time, failed coup attempts have disrupted Madagascar’s weak democracy seven times since the onset of multi-party democracy. A post-election standoff and series of violent skirmishes nearly expanded into a low-level civil war in 2001-2002 (Ramasy 2010; Ramasy & Vallée 2014). And, of course, in 2009, the coup d’état which installed Rajoelina in the presidency was yet another blow to democratization in Madagascar. The latter, originating an almost five years during political crisis and international isolation of the country. Internal and external mediation efforts were challenged seriously but ultimately leading to the organization of elections as a necessary condition to end the crisis.

Madagascar’s 2013 elections were explicitly intended to re-establish an elected government and return to constitutional order. The success of the 2013 elections was a necessary condition for Madagascar to step out of the political crisis, be again part of the international community, thereby be able to access international development aid. International pressure somehow imposed the government to learn from the past and to organize the elections in a transparent and credible way as to avoid the cyclical post-election crisis, and to obtain their acceptance by all stakeholders. As such the 2013 elections (presidential and legislative) have ended the protracted transition (2009-2013). The 2015 local and senate elections

66 Harbeson J. W., 1986, “Constitutions and Constitutionalism in Africa: A Tentative Theoretical Exploration”, in Ronen D., (ed.), *Democracy and Pluralism in Africa*, Boulder, Lynne Rienner Publishers, p. 7. See also Huntington S., 1991, *The Third Wave: Democratization in the Late Century*, Oklahoma, Oklahoma University Press, pp. 5-13.

67 Sandbrook R. 1996, “Liberal Democracy in Africa: A Socialist-Revisionist Perspective”, in Nyang’oro J. E. (ed.), *Discourses on Democracy: Africa in Comparative Perspective*, Dar-es-Salaam, Dar-es-Salaam University Press, pp. 137-138.

68 Mkandawire T., 1999, “Crisis management and the Making of ‘Choiceless Democracies’”, in Joseph R., (ed.), *State, Conflict and Democracy in Africa*, Boulder & London, Lynne Rienner Publishers, pp. 119-135.

69 1993, 1996, 2001, 2006, 2013.

70 1993, 1998, 2002, 2007, 2013.

gave a majority to the political party, HVM of the President, Hery Rajaonarimampianina and brought some still fragile stability.

However, the democratization was stalled⁷¹ because the elections did not play their role as some undemocratic measures have been taken by both transitional and current regimes. The modernization of the neo-patrimonial regime and society is difficult. The importance of corruption has affected the rule of the game. The choice of the citizen was not driven by clear reasons. The weakness of the political parties and the unwillingness of political elites to relinquish authoritarian control has stymied democratic progress. The opposition does not really exist in the political system despite the fact the Constitution recognizes the role of the opposition⁷². A Leader of the Opposition has to be chosen by the political parties in the opposition but up to date there is no Leader of the Opposition. These are the main reasons of the failure of the democratization process. In this competitive authoritarianism where « bad governance » is the rule, the legitimacy of democracy depends on the ability to provide high-quality governance⁷³.

Madagascar's 2013 elections could be seen as a democratic 'makeover election' aimed at legitimizing the country's 2009 coup d'état, a process by which coup leaders and outside actors transform illegally-obtained power into internationally legitimated rule⁷⁴. In this perspective, the 2013 elections provide, like all previous elections in Madagascar, further evidence that the organization of repeated multi-party elections is not automatically consolidating democracy. When viewed against the wider background of post-conflict elections on the African continent, Madagascar's 2013 elections were not all that surprising. First, in line with van de Walle's earlier findings⁷⁵, Madagascar's multiparty competitive elections procedurally satisfied donors, thus enhancing the government's external legitimacy without threatening the interests of the ruling elite. Second, confirming the general trend of an absence of alternation. Thirdly, at whatever level elections are held, political power is strongly personalized around the president. The elections were logically perceived by Madagascar's elite as rewarding a governance system based on strong presidentialism and big man clientelism. Programmatic and ideological differences or debates about specific policy issues hardly played any role. Although, in the eyes of the international donor community, elections generally continue to be associated with state building, democratization and more accountable governance, Madagascar provides a useful reminder that a less ideological and more realistic view of elections is needed. Elections can be potentially advantageous or injurious to post-conflict stability and democratization⁷⁶.

In this perspective, the upcoming 2018 general elections will be the ultimate test for Madagascar in terms of consolidation of democracy and political stability. As mentioned earlier, at the political level, the past years were still characterized by institutional instability. In May 2015, Parliamentarians voted to impeach President Hery Rajaonarimampianina. Although not approved by the constitutional court, this event created a general climate of mistrust between the institutions. Moreover, Government changed three times over the last years, also affecting political stability. Another destabilizing factor is the unsolved roots of the political crisis as the reconciliation process has not been achieved and as political dialogue has in general stagnated.

71 Zoubir Y. H., "Stalled democratization of an authoritarian regime: The case of Algeria », *Democratization*, vol. 2, n° 2, 1995, pp. 109-139.

72 Art 14 « La Constitution garantit le droit d'opposition démocratique.

Après chaque élection législative, les groupes politiques d'opposition désignent un chef de l'opposition. A défaut d'accord, le chef du groupe politique d'opposition ayant obtenu le plus grand nombre de suffrages exprimés lors du vote est considéré comme chef de l'opposition officiel.

Le statut de l'opposition et des partis d'opposition, reconnu par la présente Constitution et leur donnant notamment un cadre institutionnel pour s'exprimer, est déterminé par la loi."

73 Fukuyama F., 2015, "Why is democracy performing so poorly, *Journal of Democracy*, Volume 26, Number 1, January 2015, p. 15.

74 Klass B. & Ramasy J. F., 2015, The Coup 'Makeover': Madagascar's 2013 Election & Legitimization of the 2009 Coup,

75 Van de Walle, N. 2003, "Presidentialism and clientelism in Africa's emerging party systems", *Journal of Modern African Studies* 41 (2), pp. 297-321.

76 Reilly, B. 2008, "Post-war elections: uncertain turning points of transition", in A. Jarstad & T. Sisk, eds. *From War to Democracy: dilemmas of peacebuilding*. Cambridge University Press, pp. 157-181.

Malagasy society is structured by several cleavages of varying type: political, social, ethnic and religious. However, these cleavages do not lead to widespread violence or open, violent conflict. As demonstrated by the results of an Afrobarometer survey on this topic (2013), only 10% of respondents said they had participated in political violent protest, with 80% saying they would never take part in a protest or use violence for a political cause. One of the reasons is that the population in general does not benefit from political change and has lost its confidence in political movements promoting change. Another reason is that, in general, manifestations (of political, social, economic nature) are forbidden and when taking place, they are repressed by force. Although the elected Government promised to tackle cleavages through national reconciliation processes, after its instalment, very few initiatives have taken place and when organized they lacked transparency and credibility. Although a law on national reconciliation has been adopted in December 2016, opposition parties fear that this text will not translate into practice and questions around the inclusiveness of the upcoming elections are raised. As such, underlying cleavages and political tensions remain unsolved and could be potential factors for conflict in the current electoral cycle.

Indeed, the pre-electoral period presents different challenges in terms of guaranteeing credible, transparent and peaceful elections. Political and social tensions characterize the current context, translating a general dissatisfaction with the current politics and overall context of increasing insecurity, corruption and inflation. Protest movements and manifestations of any kind are systematically forbidden and when taking place, they are repressed by security forces, not hesitating to use violent means when necessary. For example, in May 2016, a dozen political parties, regrouped in the coalition « Mitsangana Ry Malagasy » (MRM), called for an early election. This movement called for the resignation of the President of the Republic. Their motivations were based on the situation of poverty in the country as well as widespread corruption and difficulties for the government to find solutions. Manifestations planned by this movement were systematically prohibited.

More specifically, discussions and potential tensions are also arising concerning the conditions characterizing the organization of the upcoming general elections in 2018. In the upcoming months, the Government and Parliament will have to evaluate the legal reforms presented by the electoral commission to adapt the electoral code and other laws as the actual one's present incoherencies as they are from the transition period. Although the electoral commission is doing efforts to credibilise the process and create a climate to prevent election-related conflict, among others by organizing consultations with the different electoral stakeholders, challenges related to the electoral process, as identified by SeFaFi⁷⁷, an observatory of public life, are the inclusiveness and credibility of the electoral list, the independence of the electoral commission and the high court, clear and enforceable rules and transparency on electoral campaign financing and the financing of the elections in general. As such, the overall pre-electoral context presents several risks in terms of potential election-related tensions that could degenerate into conflict if not dealt with in time and with the necessary political will.

3.2 Recommendations

Although Madagascar has not been characterized by systematic widespread violence linked to the organization of elections, political and social tensions and increased insecurity are often observed in the pre-electoral phase and the results of the elections are systematically contested by opposition forces, creating a general climate of mistrust when new elections are approaching. Even if Madagascar succeeded in organizing the 2013 elections to return to constitutional order and so to say „end the political crisis“, this articles shows the many challenges that remain to create a general climate of political stability, allowing for the organization of elections as a means to prevent conflict and consolidate peace.

⁷⁷ SEHATRA FANARAHY-MASO NY FIAINAM-PIRENENA (SeFaFi), *Observatoire de la Vie Publique*, « Les élections à venir, à l'image des précédentes ? », Antananarivo, 1er avril 2017.

Therefore, efforts that are currently undertaken by the electoral commission to build trust, credibility and transparency should be reinforced and consolidated. The following recommendations are important to consider for the upcoming general elections as to contribute to a climate that allows for the organization of peaceful elections.

- **Reinforcing independence of the electoral management body and judiciary**

As this article shows, the political independence of the electoral management body (EMB) is crucial to build trust in the electoral process and prevent conflicts to arise as to organization of the elections. Therefore, independence should not only be recognized in the highest legal order but also guaranteed in practice. As such, the actual CENI should have full authority over the election process and be able to define the mechanisms of implementation to fulfil its mandates and be able to align them with its capacity. To this end, the CENI should have the authority to issue and enforce regulations that interpret and elaborate on its core functions. Election staff at all levels should be accountable only to the CENI.

One of the major challenges is the financial autonomy of the CENI as a necessary condition for its independence. The CENI should be able to manage its budget autonomously. It must be subject to the same standards of financial integrity as other public institutions. The timely allocation of sufficient financial resources must be protected from political manipulation.

Another important factor for the independence and credibility of the EMB is the selection and nomination processes of the EMB members. These processes should favour competence and inclusiveness in terms of gender, ethnicity and other key socio-demographic characteristics. Commissioners should combine professional skills with experience so that they can act with competence and credibility. As for the CENI to be up to its task, there should be continuous investment in professional development. Some efforts and initiatives have already been undertaken by the current team and should be continued as to professionalize the CENI members, staff and this not only at central level but also at the decentralized levels.

Apart from the CENI, the judiciary should also be reinforced in terms of dealing with electoral complaints and its independence should be guaranteed as to avoid contestation of the results and general frustration leading to mobilization and protest outside the institutions as has been the case in the past.

- **Reinforcing and consolidating consultative platforms and codes of conduct**

Among the initiatives currently undertaken by the CENI to contribute to the credibility and transparency of the process are the consultation platforms with the different electoral stakeholders (political parties, civil society, media, administration and technical and financial partners) as to include them in the different phases of the electoral cycle and take into account the different recommendations. These consultation and information rounds have the objective to create a general context of transparency and credibility as a means to prevent contestations once potential electoral reforms adopted.

As the process advances, it would be useful to hold also multi-party consultative platforms as to make sure that dialogue and information sharing among the different stakeholders exist. The security forces and traditional and religious leaders are also important to include in the consultation rounds. The importance of these platforms is not only to discuss and agree on the rules of the game but also to make sure that they are respected by the different stakeholders. In this perspective, codes of conduct are discussed and should be ideally adhered to by all electoral stakeholders to prevent behaviour that could incite conflict.

- **Building capacities in conflict prevention, mitigation and resolution for the electoral stakeholders**

The CENI, as the institution facilitating these processes, should have the necessary tools to prevent, mitigate and resolve potential election-related tensions and conflict. Strengthening of capacity in this area seems crucial, not only at the level of the electoral management body, but also at the level of the other actors directly involved in the electoral process. Some efforts have already been deployed to build a pool of experts in the area both at the level of the electoral management

body and civil society but given the general political climate of suspicion more initiatives should be dedicated to constituting capacities both at central and decentralized level in dealing with election-related conflict. Related to this is the consolidation of early warning mechanisms, using adapted communication tools, by closely collaborating with all actors having a direct insight in what is happening on the ground. Existing tools, such as media monitoring, deployment of conflict mediators and awareness raising campaigns should be encouraged.

- **Reinforcing the role of the Security forces in the prevention of electoral conflict**

Security forces have become politicized since 1972 rather than being depoliticized and adhering strictly to their constitutional and traditional roles of tendering the nation's security. The forces therefore need to undergo a regime of partisan political disorientation, incorporating programs of training on their expected constitutional roles, on civil-military relations, on human rights and international humanitarian law. The program must also emphasize the need to observe professionalism at all times. Renewed sense of professionalism founded on sound political education will ensure making the security institutions see themselves as symbols of national unity and impartial arbiters, rather than political tools in the hands of the ruling party for perpetrating political illegalities, and dishonesty during electoral contests.

The SSR (Security Sector Reform) process that is under way should consider the improvement of the quality of security during the electoral process. Legal provisions and regulations should be introduced to ensure the neutrality of the forces providing security and prevent abuses.

The security of the electoral process is the responsibility of the security forces according to the electoral code. In particular, they must accompany the electoral material during its deployment and repatriation. However, the security forces only have 20,000 troops for the security of the polling stations. In the last presidential election in 2013 there were 20,001 polling stations. Some members of the *fokontany* (local administration) helped to secure the polling stations. To overcome this lack of human resources, a special force, under the authority of the institutions managing the electoral process, could be established with the consensus of all electoral stakeholders.

The security forces should be accompanied in the process of securing the elections, among others through the deployment of a SADC / AU / UN police mission, specific trainings and regional cooperation in defence and security should be strengthened, in particular with SADC.

- **Adopt electoral reforms and define clear and enforceable rules of the game**

As legal review has been done by the electoral commission, in consultation with the electoral stakeholders, of the texts governing the elections and political parties to improve coherence and update the texts to the current context, Government and Parliament should evaluate and accept reforms in order to contribute to a more coherent electoral process starting with the general elections in 2018. Concerning political parties, implementing the provisions on account and spending transparency before and during the elections as to guarantee a fair playing ground. It should be clearly defined which institutions have the responsibility to enforce the rules and sanction the infractions.

- **Large and continuous awareness raising campaigns related to the different phases of the electoral cycle and electoral reforms**

One of the main areas of action in the current electoral process is the annual updating of the voter list. Although the latest update registered an increase of 6.33% of voters, setting the total of voters at a number of 9 222 918⁷⁸, still a lot of efforts need to be deployed to have a maximum of potential voters registered, especially in rural areas, among women and youth. Large awareness campaigns are needed to mobilize the citizens to actively register and make sure they are on the voter list. The population needs to be informed on the procedures. Furthermore, large voter awareness and education campaigns are needed to encourage citizens to participate in the elections as in general,

78 <http://www.ceni-madagascar.mg/augmentation-de-633-des-inscrits-sur-la-liste-electorale/>

the population is disappointed by politics and expresses election fatigue as elections do not bring direct improvements in their daily life.

Moreover, once electoral reforms are adopted in the new electoral code, they need to be disseminated and discussed among all electoral stakeholders at all levels in order to make sure that they are understood and commonly accepted. These awareness campaigns serve also to build spread message

- **Strengthening political party culture**

Political parties in Madagascar should strive to develop issue-based platforms and build membership bases across the country and beyond the capital. Steps should be taken to strengthen internal party structure, organization, and democracy, while regulating the participation of independent electoral candidates in order to reduce political fragmentation and potential tensions and conflict.

- **Continue reconciliation and political dialogue efforts as necessary condition for political stability and peace**

As to tackle the root causes of political crisis, reconciliation efforts should be relaunched with the participation of all relevant political, economic, military and social actors. A true and comprehensive reconciliation process has the potential to reduce the effect of the country's prevailing winner-take-all politics, and even end the condition of exclusion and exile that has followed each crisis; it is a necessary condition for political dialogue and stability.

Malawi

Author : Henry Chingaibe



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1.0. Introduction

On 20th May 2014, Malawi carried out a fifth general election since its transition to multiparty democracy in the early 1990s. While all the five general elections received a certification by local and international observers as having been free and fair, they have not been completely without incidents of violence. However, acts of electoral violence have not been so consequential as to negate the electoral process and/or its outcomes. This chapter analyses the pattern and nature of electoral violence in Malawi and the various mechanisms that are deployed to mitigate electoral violence. It makes the following 5 key claims: the transition to multiparty democracy in the 1990s created and widened the latitude for electoral competition, and therefore brought about the risk of electoral violence; secondly, that a number of structural, institutional and agential factors drive the occurrence of violence, and that the most consequential drivers include pervasive, deep and severe poverty and the dominance of patron-client politics; thirdly, that electoral violence between political parties has been decreasing steadily across successive elections since 1999, while the incidence of conflict and violence within the political parties has been rising and concentrated in political parties at the helm of government; fourthly, that the Election Management Body –the Malawi Electoral Commission- is not sufficiently mandated and resourced to respond to, and address acts of electoral violence as these are seen to be matters of the criminal justice system; and fifthly, that while there have been attempts to come up with mechanisms to forestall electoral violence, the early warning mechanism is still undeveloped and requires attention.

This chapter is organized as follows: Section 2 presents the conceptual framework and methodological approach that was used for the study. Section 3 presents a historical and contemporary context of electoral violence in Malawi and identifies drivers of election-related violence. Section 4 focuses on the frequency and geographic spread of electoral violence in Malawi. Section 5 focuses on administrative, legal and institutional mechanisms for addressing electoral conflicts and violence. Section 6 focuses on prevention of electoral violence and discusses early warning mechanisms for electoral violence in Malawi. Section 7 presents concluding remarks and recommendations.

2.0. Conceptual framework and methodological approach

2.1. Definition and taxonomy of electoral conflict and violence

The literature on conflict presents several definitions and classifications of conflict and forms of violence. This chapter is concerned with political conflict and violence that takes place during the electoral process and involves at least two contending actors. Those are electoral stakeholders and their dispute or their intentions are concerned with elements of the electoral process or its outcomes¹. Electoral conflict, like any other conflict pre-exists violence. It has a growth trajectory from a stage of latency (i.e. low tension) to high voltage build-up, or a stage of escalation before it breaks out into open conflicts and physical violence. This chapter is concerned mainly with incidents of open conflicts and violence in the electoral process. In this context, the analysis is informed by Jeff Fischer's definition in which electoral violence means "any random or organized act or threat to intimidate, physically harm, blackmail or abuse a political stakeholder in seeking to determine, delay or to otherwise influence an electoral process [and its outcomes]"². Electoral violence takes many forms as is sufficiently indicated by the definition. In order to carry out a fruitful search on prevention measures, it is necessary to identify types of violence not by

1 ECES (2015) *Facilitator's Guide: Leadership and Electoral Conflict Management for Electoral Stakeholders* (ECES) p.26

2 Fischer, J. (2002). *Electoral conflict and violence: a strategy for study and prevention* (White paper). Retrieved from <http://www.ifes.org/Content/Publications/White-Papers/2002/Electoral-Conflict-and-Violence-A-Strategy-for-Study-and-Prevention.aspx>

looking at forms but by looking at categories of perpetrators and victims of violence. Such an approach is useful because it enables identification of key actors, their intentions and the stages in the electoral cycle when the various types of violence are likely to occur.

Table 1 here below presents a synoptic taxonomy of electoral violence that informed the diagnostics of the Malawi case³.

Table 1 Taxonomy of electoral violence based on perpetrator and victim

Perpetrator	Victim of Violence		
	Party	Voter	state
Party	Action or threat of violence exerted by an organized political group on another organized political group in response to electoral results or to influence the electoral process in favor of the inciting group.	Action or threat of violence exerted by an organized political group on a citizen or group of citizens for reasons other than their political affiliation.	Action or threat of violence exerted by an organized political group against the representatives, employees, properties or symbols of the State, in seeking to influence the electoral process or as a reaction to electoral results.
Voter	Action or threat of violence exerted by voters or supporters of a political party on the party's officials in response to intra-party irregularities in the electoral process or its outcomes ¹ .	Act of violence between citizens during the electoral process. Violence includes incidents between religious or ethnic groups that take place without political party control.	Action or threat exerted by an individual or a non-organized group of people against the representatives, employees, properties or symbols of the State, to influence the electoral process or as a reaction to electoral results.

³ The Table is based on a narrative classification of electoral violence that was developed by Kaheilia (2014).

State	Any illegitimate action or threat of violence exerted by representatives of the state – civil servants or members of security forces – to intimidate, physically harm, blackmail or abuse leaders or members of a political party.	Any abusive action or threat of violence exerted by representatives of the state to intimidate, physically harm, blackmail or abuse a citizen or a group of citizens in an attempt to influence the results of an election or to punish citizens for the results.	an action or threat of action exerted by a sovereign nation against another sovereign nation to influence the result of a democratic electoral process or to cancel this result; OR action or threat of action by an agency of the state against another agency e.g. the security forces disrupting and closing down the premises of an EMB during the electoral process ² .
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2.2 Methodological approach

Data for this chapter was collected through two main methods, namely literature review and a limited number of key informant interviews. The review of literature included gathering and reviewing documents such as reports of the Malawi Electoral Commission (MEC), reports of election observer missions, as well as tracking and reviewing articles in mainstream print media for each general election, focusing on a period of 6 months before the polling day and three months after the polling day. Data was culled out from the documents and cast into a spreadsheet that captured years of elections, perpetrators and victims of violence, issues at stake that led to violence, and location of violent acts. A selected number of key informant interviews were conducted with electoral officials and commissioners, and representatives of civil society organizations (CSOs) that work on electoral matters. The interviews were conducted to enable in-depth understanding of the various aspects that this chapter was concerned with.

3.0. Context and drivers of electoral violence in Malawi

3.1. Context of electoral violence in Malawi

The context for electoral violence in Malawi can be divided into two periods. The first starts with the very first elections for political office in 1961 and ends in 1993 with a referendum that rejected continuation of a one-party state. The second period, from 1994 to 2014, covers two decades in which five general elections were held in a multiparty setting.

3.1.1. Colonial and one –party context of electoral violence

Malawi became an election-based polity in 1961 towards the end of the British protectorate. Five political parties, namely, the nationalist Malawi Congress Party (MCP) led by Dr. Hastings Kamuzu Banda, the imperialist United Federal Party (UFP) led by Michael Blackwood, the Christian Democratic Party (CDP) led by Chester Katsonga, the Congress Liberation Party (CLP) led by Thamar Dillon Thomas (TDT) Banda and the National Liberation Democratic Party led by Clement Kumbikano participated in the

election.⁴ Historical records show that the election was accentuated with acts of violence. In particular, there was widespread intimidation by MCP agents against the members and candidates of other parties particularly the UFP, and nearer the polling day. The first recorded incident of electoral violence occurred in Ntchisi district (or Visanza as it was called at that time) where a house belonging to a candidate for UFP and five other houses were torched in the night of 27th July 1961 by MCP cadres.

In the period leading to the 1964 general election, electoral violence was more pervasive than in 1961. Violence was perpetrated by agents of the MCP and was directed at candidates of opposition parties and individuals, and at some chiefs who kept their absolute loyalty to the British establishment. The most targeted party was a new opposition party called Mbadwa (indigenous) that was led by Gilbert Pondeponde. Mbadwa intended to field candidates in all constituencies in 1964. The leaders, candidates and their supporters were targets of assault, petrol bombing of their houses and murders. By January 1964 Mbadwa leaders had fled the country for Zimbabwe and Zambia. Pondeponde himself was killed on Christmas Eve in 1963⁵. Religion was also a fault line for electoral violence. In particular, the MCP agents targeted members of the Jehovah's Witnesses for their adherence to a doctrine that prevented them from recognizing earthly political authority, and encouraged them not to register for voting in elections. They were harassed and most members left for neighbouring countries as political persecution continued after the general election. The MCP began to consolidate its power by purging any opposed elements⁶. By 1966, MCP had consolidated its political power leading to the making of the one-party state with Kamuzu Banda at the helm. The Constitution was amended in 1971 to make Banda the 'life president' at the time when elections were due.⁷ Since then Malawi was a one-party state until 1993 when the transition to multiparty democracy occurred.

Throughout the three decades of the one-party state, parliamentary and local government elections were regularly held thereby earning Malawi the label of electoral authoritarianism. However, the presidency was not open to competition and candidates for parliamentary seats were carefully chosen by the party and approved by the President, as were candidates for local government councils. The periodic elections were held essentially to create the semblance of popular political legitimacy that the one-party state was, after all, a special type of democracy⁸. The configuration of power and the manner in which political authority was exercised, was on the four cornerstones of loyalty, discipline, unity and obedience. Its ruthless party cadres, and especially the Youth League and the para-military Malawi Young Pioneers (MYP)⁹ precluded the occurrence of electoral violence within the party for three decades. The one-party state and Banda's life presidency meant that inter-party competition was nonexistent. Consequently, electoral violence as a phenomenon and concept can be said to have re-entered political discourses in Malawi at the onset of the transition to multiparty democracy.

3.1.2 Contemporary context of electoral violence

4 Nyathi, Clever and Mustafa Hussein (2013) Instrument for Peace and Social Cohesion- A National Peace Architecture of Malawi Report (Office of the President and Cabinet: Lilongwe)

5 Malewezi, J, (2013) Keynote Address Delivered at the Pre-Election Workshop ,22 August, 2013.

6 Chingaape, Henry (2010) Business and the State in Malawi: The Politics of Institutional Formation, Maintenance and Change (PhD Thesis, University of York). See especially chapter five. Available at http://etheses.whiterose.ac.uk/1507/2/BUSINESS_AND_THE_STATE_IN_MALAWI_final.pdf.

7 ECM, Living Our Faith: A Pastoral Letter of the Catholic Bishops in Malawi, Montfort Press, Balaka 1992.

8 Kamuzu Banda, opening speech to the MCP Convention, 1st September 1969.

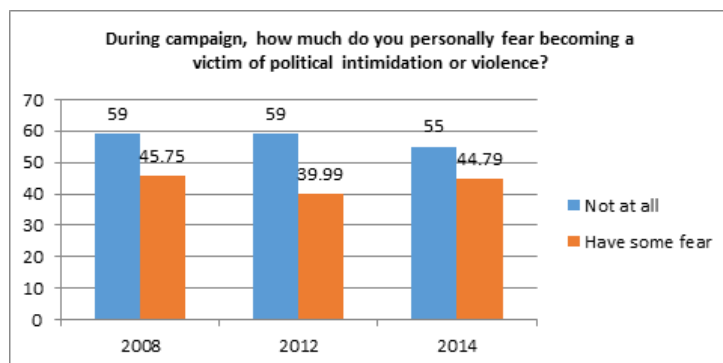
9 Phiri, Kings M (2000) 'A Case of Revolutionary Change in Contemporary Malawi: The Malawi Army and the Disarming of the Malawi Young Pioneers,' Journal of Peace, Conflict and Military Studies, www.beyondintractability.org/internal-biblio/11960.

Through a historic referendum conducted in the month of May 1993, after three decades of authoritarian one-party rule, Malawians embraced multiparty democracy as the dominant framework for organizing national politics and governance. This entailed the adoption of norms of competitive politics within political parties, between political parties and among candidates for the presidency, parliamentary and local government seats.

After the transition to multiparty democracy, the number of registered political parties has increased from one in 1993 to over fifty in 2014. The number of parties fielding candidates under their ticket increased to over ten with the number of parties winning seats in parliament increasing from three in 1994 to seven in the 2014 general elections. The increasing number of political parties has come about because of disagreements in the original parties leading to factions and splits¹⁰. More political parties have meant more intense competition, more political tensions and potentially more instances of electoral violence. This is particularly the case because winning a political office is regarded as a key to better livelihood and access to resources, opportunities and privileges not just for the individual candidate but for his or her entire clan, faction, or even ethnic group.

Although democratic theory presents elections as peaceful processes through which individuals or groups of individuals acquire positions of power in society¹¹, violence occurs in elections either as immediate reaction to unfolding events or as "... a tactic in electoral competition"¹². A quick cursory view of public perceptions in Malawi, since the first multiparty general election in the post-transition period, shows that electoral violence tends to be episodic and sporadic. A significant proportion of adults, about 40 per cent, personally fear becoming victims of political intimidation or violence particularly during the campaign period. As the figure below shows, the proportion of adults with such fear has been consistently significant in relation to the last two general elections (2009 and 2014). The proportions suggest that the kind of political tensions that exist during the campaign period, especially between political parties, are seen as capable of degenerating into open physical violence between contending groups of political activists or even politically passive individuals.

Figure 1: Proportion of Malawians with and without fear of electoral violence



Source: www.Afrobarometer.org

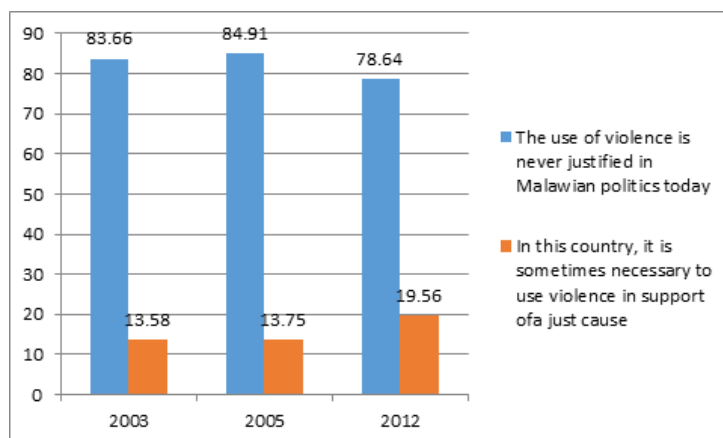
10 Khembo, Nixon (2004) Political Parties in Malawi: From Factions to Splits, coalitions and Alliances, in Martin Ott et al (2004) The Power of the Vote: Malawi's 2004 Parliamentary and Presidential Elections (Kachere Series)

11 Lijphart, Arend (1999) Patterns of Democracy: Government Forms and Performance in Thirty-Six Countries (New Haven and London: Yale University Press); Dahl, Robert (2015) On Democracy. Second Edition edited by Ian Shapiro (New Haven and London: Yale University Press).

12 Kehailia, Greg (2014) 'Countering Electoral Violence with Electoral Education' in Almami Cyllah (ed) Elections Worth Dying For? (Washington: IFES)

Although electoral violence occurs and significant proportions of people fear of becoming victims of electoral violence, a significant majority of Malawians repudiate the use of violence as a tactic for settling political disputes or for creating an edge in electoral competition as shown in the figure below. The consistently high proportions of people who repudiate the use of violence should be a source of encouragement to election practitioners who seek to deliver free, fair and peaceful elections. It signposts the possibility that in cases of escalating tensions, actors can be expected to be slow in crossing the line to open physical violence¹³.

Figure 2: Proportions of Malawians supporting or repudiating use of violence in politics.



Source: www. Afrobarometer.org

3.2 Drivers of electoral violence in Malawi

There are a number of issues that play a key role in driving electoral violence so much that it should be understood as a multivariate outcome (i.e. it is motivated by a confluence of several variables at any given moment). However, for purposes of presentation, five key variables can be isolated. These are capacity gaps and perceptions of partiality of the Election Management Body; the primacy of parochial identities especially regionalism and ethnicity, the FPTP electoral system and its perverted set of incentives for electoral violence; poverty and the dominance of patrimonial politics in a context of rising youth unemployment.

3.2.1. Public perceptions of partiality of electoral management body and inadequate operational capacity

3.2.1.1. Public Trust in MEC

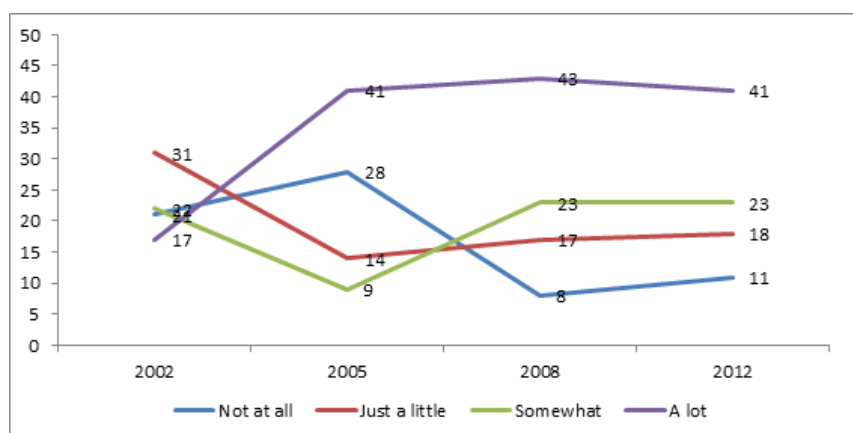
Literature consistently shows that the risk and occurrence of electoral violence are high in political systems where trust in the Electoral Management Body (EMB) is low and the EMB is persistently perceived as partisan¹⁴. The argument is that EMBs that work to instill confidence and trust in the electoral process

13 Bardall, Gabriella (2010) A Conflict-Cycle Perspective on Electoral Violence (IFES); LEAD Facilitors Notes, ECES.

14 Darnolf, Staffan and Almami Cyllah (2014) Electoral Management Bodies and Electoral Violence' in Almami Cyllah (ed) Elections Worth Dying For? (Washington: IFES).

can reduce or eliminate many triggers of political violence and unrest¹⁵. Malawi's EMB – the Malawi Electoral Commission (MEC) has over the years received a significant amount of bashing in the media and in other scholarly analyses thereby painting the picture that the MEC is largely incompetent and mostly biased¹⁶. However, survey data from Afro-barometer shows that over the years, people's trust in MEC has been rising as shown in the figure below:

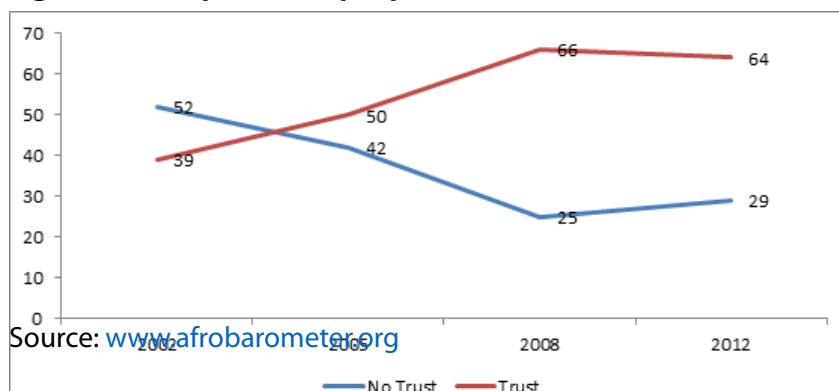
Figure 3 (a): Four responses on Trust in MEC



Source: www.afrobarometer.org

As the figure shows, the proportion of people without trust in MEC significantly reduced from 22per cent in 2002 to 11per cent by 2012. When the responses are minimized to only two categories of 'No trust' and 'Trust' in MEC, the proportion of people with trust in MEC increased from 39per cent in 2002 to 64per cent in 2012 and was at its peak in 2008 at 66per cent. Conversely the proportion of people with no trust in MEC has decreased from 52per cent in 2002 to 29per cent in 2012 as shown in figure 3 (b) below:

Figure 3(b) Proportion of people with 'no trust' and with trust in MEC



Source: www.afrobarometer.org

Thus, despite recurrent operational shortfalls, the MEC is seen as trustworthy probably because of its

¹⁵ Ibid.

¹⁶ Chirwa, Chijere (2013) Malawi: Democracy and Political Participation (AfriMmap and OSISA); Chingaipe, Henry (2013) National Integrity System Assessment for Malawi. Study carried out for MEJN and AICC (www.transparency.org); Chingaipe, Henry (2013) Legal Policy Analysis of the Electoral Environment for the 2014 Tripartite Elections (Norwegian Church Aid: Lilongwe).

broad-based consultative approach to election management¹⁷. The levels of public trust in the MEC put it in a very advantageous position that can be exploited by developing a closer collaborative mechanism with the police and the judiciary to prevent and mitigate acts of electoral confrontations and violence.

3.2.1.2. Capacities of the MEC to deliver credible elections

Despite a fairly good rating in public attitude surveys, the MEC has demonstrated competence deficits from one election to another especially in managing election logistics. In each election year, there have been episodes of electoral violence that are connected to some logistical or operational shortfall in the administration of elections. The capacity shortfalls for the 2014 elections are most pronounced especially those related to the production of a credible voters' roll, and the distribution of election materials and results management¹⁸. Capacity shortfalls in the Electoral Commission conjure suspicions of plots to rig elections and in some places lead to acts of violence. This is particularly the case when there are widespread perceptions of the lack of independence for the EMB. However, the degree of robustness of the transparency and accountability mechanisms for the election body, and improvements in operational competence would go a long way in preventing electoral violence by instilling and maintaining faith and credence in the election management body¹⁹. While transparency and accountability mechanisms have significantly improved for the Malawi Electoral Commission over the years, especially through the adoption of a consultative management approach, there are still areas that require improvement as noted by the National Task Force on Electoral Reforms²⁰.

3.2.1.3 Parochial identities of regionalism and ethnicity

Identity politics, especially based on regionalism and ethnicity, have been identified as a driver of electoral violence in many African countries²¹. The issue is that the way in which politicians exploit these identities to drum up votes for them often drive divisive wedges between voters. Very often ethnic groups tend to concentrate in particular parts or regions of the country, and political parties tend to have strong ethnic and regional support bases. Thus, in moments of high political tensions during elections, political competition quickly degenerates into ethnic and regional rivalries as it did in Kenya in 2007²². Similarly, incidents of violence followed the announcement of results in 2009 in the northern region city of Mzuzu and the southern region town of Mangochi²³. There were a number of incidents of violence across the general elections, where tribal and regional identities associated with support of particular political parties were recorded. The conflation of parochial identities with support for political parties creates what have become to be 'no go zones' for political parties. For example, Mangochi and Machinga districts which are predominantly inhabited by the Yao ethnic group are understood as UDF districts. Mulanje, Thyolo and Phalombe, which are predominantly inhabited by the Lhomwe ethnic group are christened as DPP districts. Mchinji, Kasungu, Dowa and Dedza which are predominantly inhabited by the Chewa ethnic group are generally accepted as MCP districts. The Northern region

17 On 14th November 2014, the Media Institute of Southern Africa (Malawi Chapter) awarded the MEC with a trophy for being the most open and transparent public Institution.

18 See MESN election report.

19 Opitz, Christian et al (2013) 'Including peace: The Influence of Electoral Management Bodies on Electoral Violence', *Terrorism and Political Violence*, 7(4).

20 NTER (2015) *Issues and Recommendations for Electoral Reforms in Malawi* (MESN).

21 Goldsmith, Arthur (2015) 'Electoral Violence in Africa Revisited', *Terrorism and Political violence*, 27(5); Mueller, Sussane D (2011) 'Dying to Win Elections: Political Violence and Institutional Decay in Kenya', *Terrorism and Political Violence*, 29(1).

22 Ibid.

23 See Mwale (2010)

was, until 2004 a base for AFORD before the party disintegrated. In districts that are support bases of competing political parties, mobilization activities of other political parties are seen as unwelcome intrusions and misguided acts that need to be stopped. Party zealots often take it upon themselves and unleash violence on those agents that are seen as political intruders. Incidents of violence show that political intolerance is still a problem as politicians continue to use tribal and regional identities to shore up their support. Tribal members who choose to support a party that has its base in another tribe are demonized as 'sell outs' and collaborators of the enemy. In short, the politicization of ethnic and regional identities creates artificial categorization of citizens as insiders and outsiders – a faultline that becomes the basis for incidents of electoral violence.

3.2.1.4 Electoral system and perverted incentives for electoral violence

Since 1994 Malawi uses the First-Past-the-Post (FPTP) electoral system in single member constituencies in which the candidate with the most votes gets declared as winner. This electoral system is thought to influence electoral violence as a way for desperate candidates to win elections. Voters' apathy, arising from intimidation and violence, can significantly reduce votes for some candidates and influence who gets elected. The system presents an incentive structure that encourages political parties and candidates to deploy divisive and confrontational strategies so long as they can get them a minimum number of votes to win the election. In this regard, the politics of identity reign supreme. Furthermore, because under this system those who win the election win everything, and the losers lose everything, the system encourages exclusionary political play and configuration of ruling coalitions and foments violence particularly among those groups who begin to feel permanently excluded²⁴. These lead to the escalation of social tensions and recurring confrontations that are largely part of a zero-sum, winner-take-all political culture that incentivizes destructive political competition and inhibits desired accommodative politics and that reduces the threshold for political tolerance²⁵. After the 2014 general elections, political discourse hyped electoral reforms and focused on the potential of the proportional electoral system to engineer accommodative politics by presenting an incentive scheme that would encourage political parties to reach out to voters in different locations and ethnic backgrounds from that which dominates their political parties²⁶.

3.2.1.5 Poverty and the dominance of patrimonial politics

In Malawi, poverty is widespread, deep and severe with more than half of the population living on less than a dollar. Consequently, a significant proportion of people look up to politicians to provide the basic necessities of life leading to a culture of handouts. Over the two decades of multiparty democracy, handouts from politicians have become more commonplace and are seen as a measure of the ability of politicians to take care of the people. Afro-barometer surveys have consistently shown that a significant proportion of Malawians regard government and elected politicians as mothers and fathers who should take care of their children i.e. the citizens²⁷. In practice this has consolidated the practice of highly patrimonial politics in which elected politicians carve out benefits from the state and pass them down to their clientele which includes tribesmen and party supporters. Thus, for some segments

24 Chingaibe, Henry (2014) 'Analysis of the FPTP Electoral System in Malawi', MESN Post-Election Conference, Lilongwe; UNDP Elections and Conflict Prevention, A guide to Analysis, Planning and Programming. Democratic Governance Group Bureau for Development Policy. Page 9.

25 Clever Nyathi, 2013 Concept Note: Support to the National Peace Architecture in Malawi.

26 NTER (2015) Issues and Recommendations Paper for Electoral Reforms in Malawi.

27 Afrobarometer Survey results for Malawi Rounds 1 to 5. www.afrobarometer.org.

of ordinary citizens, elections are a matter of life or death. Their livelihood largely depends on their preferred candidate winning the seat so that the position can be used to access social and economic benefits. In these desperate circumstances, unleashing violence on opponents during elections is seen to be one of the ways for winning seats. It is not very surprising that in Malawi, as in elsewhere on the African continent, electoral violence has been mostly instigated by incumbent politicians seeking to maintain access to state-based benefits, by intimidating the opposition²⁸.

Malawi has a vast recruiting ground for perpetrators of electoral violence given the high levels of youth unemployment and under employment. From the cases of electoral violence reported by the media in the last four general elections, it is evident that older and senior politicians use young people to perpetrate violence on their opponents. The youth wings of the parties serve as instruments of terror and violence especially for parties in government. The main reason for this is that youth unemployment in Malawi is very high. Many idle but energetic youth easily sign up as supporters of the parties and as potential agents of political violence for token amounts of money that neo-patrimonial patrons generate and channel to young people²⁹. Cynical observers of the Malawian youth argued that “political violence is the only useful activity that Malawi’s political leaders have identified for the youth’s country”³⁰.

4.0 Frequency and geographic spread of electoral violence in Malawi

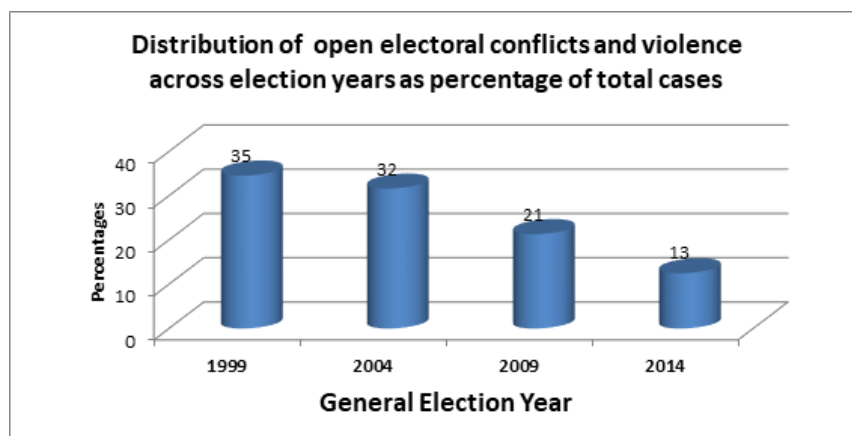
4.1 Incidence and trends of electoral violence in Malawi

Although the general elections conducted after the transition to multiparty democracy were declared as free and fair, each one of them registered acts of open conflict and violence. However, reported and recorded incidents of open conflicts and violence within and between political parties have been decreasing. When all incidents from available sources across four general elections (1999, 2004, 2009 and 2014) are summed up, and distributed across the election years in percentages, a decreasing trend of the occurrence of open conflicts and violence is clearly discernible. From a relatively high proportion of 35per cent in 1999, the proportion progressively reduced to 13per cent in 2014. This trend suggests that as electoral competition becomes more accepted and entrenched, *ceteris paribus*, open conflicts and physical violence can be eliminated.

28 Bekoe, Dorika (ed.) Voting in Fear: Electoral Violence in Sub-Saharan Africa.

29 Lwanda, John (2006) 'Kwacha: The violence of Money in Malawi's Politics, 1954-2004, Journal of Southern African Studies, 32(3):525-544; Interview with Clement Makuwa, President of the Young Politicians Union.

30 Kainja, Jimmy, 'Violence Begins and Ends with Political Parties: Malawi 2014 Elections. www.nyasatimes/2014/03/19

Figure 4: Decreasing trend of incidents of electoral conflicts and violence

Source: Author's own compilation

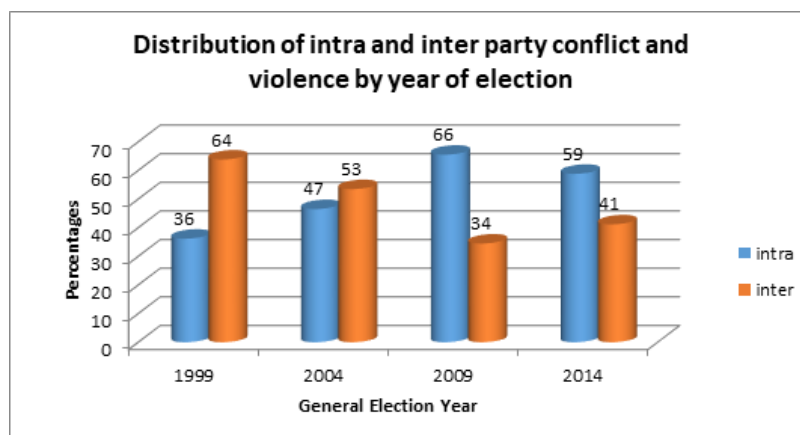
4.2. Types of open electoral conflicts and violence that have occurred

Using the typology of electoral violence presented above, a careful analytical categorization of incidents of open electoral conflicts and violence shows that party-on-party violence has been the most common and resilient form transcending all the general elections. Other types appear to be driven more by the specific circumstances or contextual factors of each general election. This finding underscores the need for the relevant authorities to carry out violence risk assessments as part of electoral and security management in the election years. Table 2 below shows the distribution of type of conflict and violence in each election year.

Table 2. Distribution of types of conflict and violence across election years

Type of conflict and violence	Election year							
	1999		2004		2009		2014	
	Tally count	%	Tally count	%	Tally Count	%	Tally count	%
Party-on-party	20	42	19	43	18	64	11	61
Party –on-voter	4	8	2	5	5	18	0	0
Party –on- state	2	4	1	2	0	0	1	6
Voter-on-voter	13	27	17	39	3	11	0	0
Voter-on -state	4	8	2	5	0	0	0	0
Voter -on-party	5	10	0	0			1	6
State-on-voter	0	0	0	0	0	0	4	22
State-on-party	0	0	3	7	2	7	1	6
State –on-state		0	0	0	0	0		0
Total	48	100	44	100	28	100.00	18	100

Table 2 indicates that violence that occurred in the last four general elections can simply be categorized as intra-party (i.e. happening between members of the same political party) and as inter-party (i.e. happening between members of at least two political parties). A disaggregation of the data reveals a paradox in which over the election years, inter-party violence has decreased while intra-party has increased as shown in the figure below:

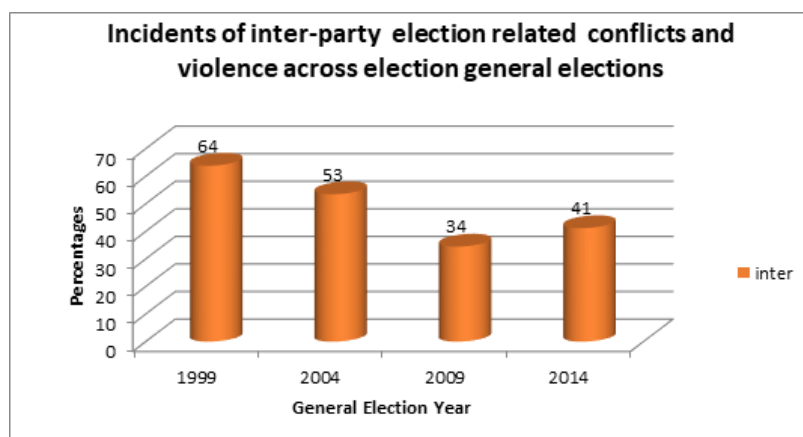
Figure 5: Distribution of intra- and inter-party conflict and violence by year of election

4.3. Trend of inter-party electoral conflicts and violence

Inter-party violence in Malawi is more frequent during the campaigning period. Trigger factors include competition for venues for political rallies, show of support for a party that does not command significant support in an area, unruly behaviors of candidates or party supporters at electoral debates (for some parties and candidates, violence and intimidation are deliberate tactics for winning elections especially in constituencies where male candidates are competing against female candidates that have high potential of winning the seats)³¹. Most of the other parts of the electoral cycle do not manifest inter-party conflicts and violence except during determination and announcement of results.

Overall, incidents of inter-party electoral violence show a decreasing trend from a high of 64 per cent in 1999 to 34 per cent in 2009 before rising to 41 per cent in 2014 as shown in the figure below.

Figure 6: Incidence of inter-party electoral violence



Source: Author's own compilation

This trend reinforces the observation that there is an inverse correlation between frequency of electoral violence and the depth of democracy in a country³². In other words, the assertion is that the more democratic a country is, the lower the likelihood for electoral conflict and violence, and the more confidence people have in institutions that are obliged to uphold the rule of law³³. This is not to suggest that Malawian democracy has come of age. Several recent analyses show that democracy in Malawi has hardly consolidated. In fact, in quite a few respects, the democratic experiment has been in reverse gear and approximates a scenario that can be described as a 'defective democracy'³⁴. Challenges facing democratic consolidation in Malawi are many, varied and transcend the state-society divide³⁵. While some challenges reflect structural dysfunctions and institutional deficiencies, others are actor-centric and have to do with the quality of leadership in the different domains. However, the point here is that

31 Chingaibe, Henry and Francis Matita (2015) Report on the Evaluation of the Gender Parity Programme for the 2014 Tripartite Elections (Lilongwe: NGO GCN)

32 Zeev, M., and Russett B. (1993). *Normative and structural causes of democratic peace, 1946- 1986*. American Political Science Review, 87, 624-638; James Lee, R. (1995). *Democracy and International Conflict*. Columbia: University of South Carolina Press.

33 Darnolf, Staffan and Almami Cylla (2014) 'EMBs and Electoral Violence', in Almami Cylla (ed.) *Elections Worthy Dying for? A Selection of Case Studies from Africa* (IFES).

34 Merkel (2004) and Merkel and Croissant (2004) define a defective democracy as a polity that has not yet consolidated liberal democracy but can no longer be considered autocratic as there is an established electoral framework which functions with a semblance or at least a minimum of democratic ethos.

35 For a profile of the challenges see Chinsinga (2003 and 2008), VonDoepp (2005) Patel (2008) and Chirwa (2013).

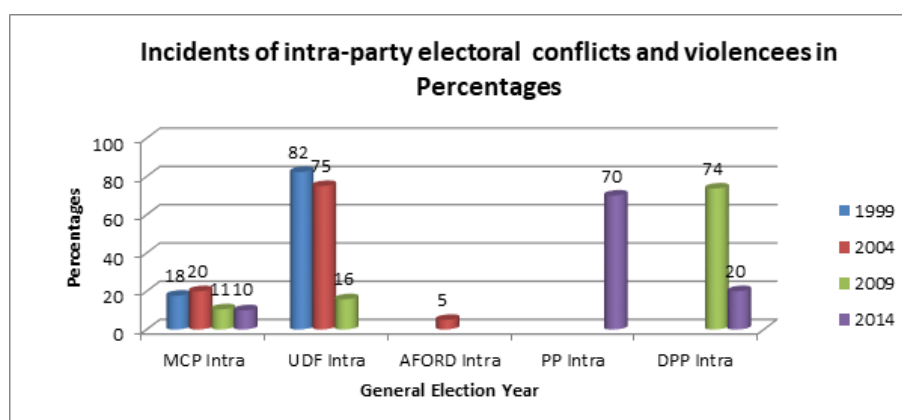
based on a minimalist definition where democracy is reduced to electoralism, the data clearly suggests that as more and more elections get to be held, politicians and their followers are becoming more accommodative and tolerant of opponents and their propensity for inter-party violence is attenuating.

4.4. Trend of intra-party electoral conflict and violence

Intra-party conflicts and violence have been increasing. From 36per cent in 1999 the proportion increased moderately to 47per cent in 2004 before a significant upsurge to 66per cent in 2009 and slight decrease to 59per cent in 2014.

As shown in the figure below, incidents of intra-party conflicts and violence were more concentrated around ruling parties i.e. political parties running government affairs. Nearly all incidents of electoral violence within political parties were fueled by the often-brutal politics of candidate selection. The concentration is skewed in favor of ruling political parties because of pervasive perceptions of the advantages of incumbency in winning elections and anticipated access to resources and opportunities when the political parties retain power through elections. Thus, in 1999 and 2004 UDF registered more incidents of intra-party violence as did the DPP in 2009 and the PP in 2014.

Figure 7: Incidence of electoral violence within political parties

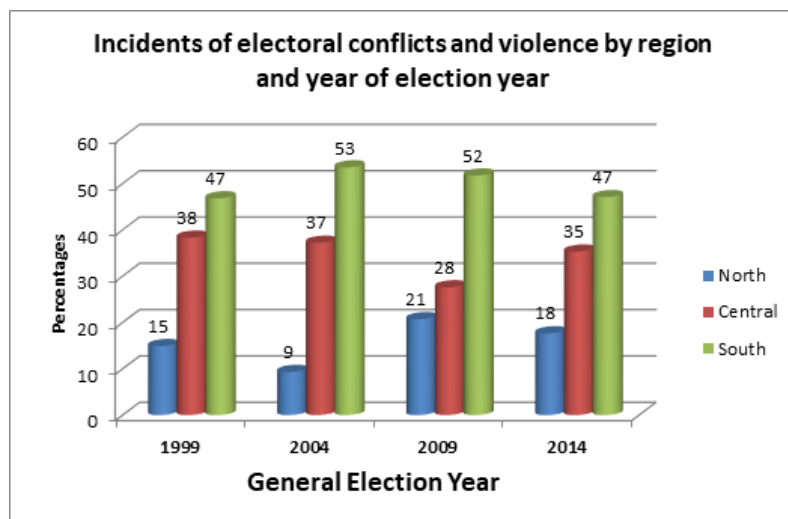


In Malawi, disputes around candidate selection in political parties are recurrent mainly because all parties have weak rule frameworks for identifying candidates. The most common disputes include disagreements on party electoral colleges, venues for primary elections, whether voting will be secret or open, allegations of under-hand exchange of money between aspirants and local party elites or party gurus tasked to run elections, allegations of bias of party leaders preferring certain candidates over others, and in apparent disregard of the wishes of the majority of party supporters³⁶.

4.5. Hotspots and geographic spread of electoral violence and their motivation

About 50per cent or slightly more of all electoral conflicts and incidents of violence across the four elections happened in the Southern region while the North has consistently registered the least numbers as shown in figure 7 below:

³⁶ Patel, Nandini and Andrew Mpesi (2009) 'Between Choice and Imposition: The Politics of Nominations', in Martin Ott and Fidelis Kanyongolo (eds.) *Democracy in Progress: Malawi's 2009 Parliamentary and Presidential Elections*

Figure 8. Percentage distribution of electoral conflicts and violence by region and election year

While the factors that underlie this distribution have not been ascertained, it can be argued that a combination of at least two factors has a contribution. The first is the distribution of population across the regions whereby the southern region is the most populous region followed by the central region³⁷. The second is the number of electoral parties with a support base in the region whereby the numbers are highest in the southern region followed by the central. The hypothesis is that a combination of these factors would play out in a distribution of incidents of electoral conflict and violence as shown in the figure above.

Electoral conflicts and violence are episodic and sporadic in Malawi. Consequently, there are no clear consistent characteristics of a hotspot district or constituency. However, in order to carry out a post-facto identification of hotspot districts, data was disaggregated at regional level and a cumulative percentage contribution of each district to the regional count was calculated across the four general elections. Appendix 1 presents the results. It shows that in the last four general elections the biggest contributing districts to electoral violence have been the city-districts of Blantyre and Lilongwe contributing 40per cent and 44per cent to the regional counts respectively. Taking a contribution of at least 10per cent to the regional count to characterize hotspot districts, the data shows that in the southern region, the other districts are Zomba, Mangochi and Machinga. In the central region, the major contributing districts were Ntcheu and Kasungu besides Lilongwe. In the Northern region, all districts except Chitipa have a cumulative contribution above 10per cent.

For the prevention of electoral violence, it is necessary to devise criteria for carrying out ex-ante identification of hotspot districts for each upcoming general election. Thus, the data presented in Appendix 1 provides a useful entry point for beginning to identify more systematically the factors that come into a confluence to trigger acts of electoral violence. This requires a more grounded in-depth qualitative study beyond this chapter. Nonetheless, anecdotal evidence suggests that electoral violence is likely to occur in districts that are known as support bases of political parties with real chance of

37 NSO (2008) National Census Report (NSO: Zomba)

winning parliamentary seats; districts that are original home districts of presidential contenders with a real chance at the presidency; districts or constituencies where heavyweight or vocal politicians come from and districts that are dominated by particular ethnic or religious groups with allegiance to particular political parties or individual political leaders. The Public Affairs Committee (PAC) used similar hypotheses to designate flashpoints of electoral violence³⁸ but record keeping and data capturing has been deficient so much that it is not possible to marshal conclusive evidence to test the effectiveness of the criteria. Similarly, the Malawi Electoral Support Network (MESN) as part of its Long-Term Observation of elections deployed observers to what it designated as 'hotspot' constituencies for the 2014 elections. The observers were tasked to monitor political party campaigns through attending political rallies, meetings or any other public gatherings so that they could have firsthand information of proceedings. They monitored the use of hate language and acts or language that could fan violence³⁹. However, the criteria that MESN used for designating hotspot constituencies have not been sufficiently clear. Nonetheless, the criteria highlighted above appear to be supported generally by data collated for this chapter but there is need to collect data more systematically over time to establish determinants of hotspots for electoral violence.

5. Administrative, legal and institutional mechanisms for addressing electoral conflicts and violence

5.1 Adequacy of legal framework

The electoral law in Malawi is currently scattered in four instruments. These are: The Constitution of 1995, the Parliamentary & Presidential Elections Act (PPEA) of 1993, the Local Government Elections Act (LGEA) of 1998, and the Electoral Commission Act (ECA) of 1998. The Constitution of Malawi provides in general terms for the peaceful settlement of disputes in section 13(l) as part of the national principles governing policy. With regard to disputes in the electoral process, the law grants a sweeping mandate to the Electoral Commission, "to determine electoral petitions and complaints related to the conduct of elections"⁴⁰ and to "establish security conditions necessary for the conduct of every election in accordance with any written law governing elections"⁴¹. In practice, the mandate granted in section 76 of the Constitution has been limited to 'electoral complaints' mostly concerned with irregularities or strict compliance with the rules of fair play in the electoral game. The Electoral Commission has not determined any cases of open confrontations and violence. This is the case because such occurrences go beyond the scope of electoral offence or electoral irregularity and fall in the realm of criminal activity which is a sphere for the criminal justice system.⁴²

Similarly, the mandate granted to the Electoral Commission in section 8(1)(i) of the ECA is carried out by the MEC by simply requesting the Police to deploy officers as necessary. In practice, such requests are limited to providing security at working stations of the MEC during registration of voters, verification of voters' rolls, presentation of nomination papers, and at polling stations on electionday. Thus, other activities of the electoral process are left out especially the official campaign period. In this regard, the duty to ensure safety and security at rallies falls on the political parties or the candidates who organize such gatherings. Thus, in practice the MEC appears to have a very limited mandate over acts of open

38 Interview, PAC Programme Manager.

39 <http://www.mesnmw.org/long-term-observation/>

40 section 76(2) (c) of the Constitution.

41 Section 8(1)(i) of ECA

42 Interviews with Chief Elections Officer and Commissioner for Electoral Services.

political conflict and violence especially in so far as mitigation of such incidents is concerned.

However, the PPEA and LGEA have enumerated all the electoral offences and penalties in relation to the various phases of the electoral cycle punishable by law. Both statutes state that “every offence under this Act shall be cognizable offence within the meaning of the Criminal Procedures and Evidence Code”.⁴³ Some of the offences identified relate more to open confrontations and violence as exemplified below:

- a. Preventing the registration of a potential voter through violence, threat or fraudulent intent⁴⁴;
- b. Preventing the holding or interrupting the proceedings of a campaign meeting duly endorsed by the District Commissioner and the Officer-in Charge of Police in a district⁴⁵;
- c. Destroying, defacing, tearing or in any manner causing to be totally or partially useless or illegible and campaign material displayed in an authorized place or space or superimposing thereon any other material concealing the earlier material⁴⁶;
- d. Using or threatening violence or using false information or other fraudulent means to coerce or induce another person to vote for or against a particular candidate or a candidate of a particular political party or to abstain from voting⁴⁷; and
- e. Using or threatening to use any force or restraint or compelling another person to sign or refrain from signing any nomination paper⁴⁸.

The general penalty for any of these offences is half a million kwachas and imprisonment for two years with possible court orders that would suspend electoral rights of convicted persons⁴⁹. As can be seen from the foregoing section, the police and the judiciary are the two critical players in law in addressing acts of open conflicts and violence in the electoral process. The MEC does not have adequate legal powers to mitigate offences related to electoral conflicts and violence. Nearly all breaches of electoral law are criminal offences within the ambit of the Director of Public Prosecutions. The role of the Electoral Commission is, at the very most, tangential and marginal. Consequently, it is at least difficult, at most impossible for MEC to promptly punish any breach of electoral laws including those that manifest in open conflicts and electoral violence. As regards the efficiency and effectiveness of the criminal justice system, the observations made by Bekoe for Sub-Saharan Africa, apply squarely to Malawi. Firstly, the wheels of the criminal justice system are pretty slow. Secondly, in many instances the perpetrators are not apprehended or are not charged; thirdly, the victims of violence receive little or no redress; fourthly, the causes of the violence remain unexamined⁵⁰.

The scheme suggests clearly that an institutionalized working modality between the Electoral Commission and the Police is desirable and necessary for effective prevention and mitigation of electoral violence. Such a relationship does not yet exist although in the election years, *ad hoc* arrangements are made mainly to provide security and prevent violence on electoral activities for which the Electoral Commission is directly concerned as a duty-bearer⁵¹.

43 Section 117 of PPEA and 100 of LGEA.

44 Section 115(a)(ix) of PPEA.

45 Section 115(b)(iii) of PPEA as read together with section 56(2) of the same Act.

46 Section 115(b)(v) of PPEA

47 Section 115(c)(viii).

48 Section 115(d).

49 Section 118 of the PPEA.

50 Bekoe, Dorina (2010) Trends in Electoral Violence in Sub-Saharan Africa. Peace Brief No.13. United States Institute for Peace. www.usip.org.

51 After all, under section 115 (c) (xviii) a Police Officer-in –Charge who fails to assign security officers upon being requested by MEC commits an offence.

6. Conflict prevention and violence mitigation measures

The practice of conflict prevention and mitigation in Malawi's electoral process identifies more with the conflict cycle approach than with any other frameworks⁵². This approach has four stages: identification of risks for electoral violence throughout the electoral cycle; deterrence or conflict prevention; detection of incidents of conflict and electoral violence; and mitigation⁵³. However, in practice emphasis is more on deterrence and mitigation and even in these, the status quo is sub-optimal. With regard to deterrence, the primary concern has been on securing venues for political rallies, ensuring personal security of high profile politicians and electoral officials, securing polling stations and the tallying center, and safety of sensitive materials such as ballot papers. The MEC has not yet recognized or discovered its central role as coordinator of a holistic conflict cycle approach that addresses electoral violence. There is no evidence of an institutionalized mechanism for sharing information about potential triggers of violence between the MEC and the Police. With regard to mitigation, as highlighted earlier, acts of open conflict and violence are left to the police whose approach is to apprehend and punish perpetrators of violence but does not address the root causes of the violence.

With regard to identifying risks throughout the electoral cycle, it is observed that systematic risk assessments are hardly carried out. There are two main reasons for this. The first represents a problem of collective action in that the MEC takes the view that such an activity would be done by the security forces while the Police takes the view that such assessments are part of the electoral administration and therefore a task for the MEC⁵⁴. Secondly, risk assessments of this sort would require a more institutionalized and resourced collaborative mechanism involving the MEC and the security forces.

With regard to detection of electoral conflicts and violence, there is a lack of a robust monitoring and data capturing mechanism. Consequently, some incidents of electoral violence are not detected especially if they do not cause bodily harm or destruction of property and assets. For instance, intimidation or threats of violence -both of which are identified as offences under the electoral law- go unnoticed and unreported because the information gathering mechanism is weak. For the 2014 election, attempts were made by CSOs under MESN to improve detection of incidents of violence. For example, under the Long-Term Observation project that MESN implemented in 84 of the 193 constituencies, MESN observers reported data for the months of March and April as follows:

52 Bardall, Gabriella (2010) A Conflict-Cycle Perspective on Electoral Violence (IFES); LEAD Facilitors Notes, 2015 ECES.

53 Darnolf, Staffan and Almami Cyllah (2014) 'Electoral Management Bodies and Electoral Violence' in Almami Cyllah (ed) Elections Worth Dying For? A Selection of Case Studies from Africa (Washington: IFES).

54 Interviews: Chief Elections Officer; Police Director of Research and Planning

Table 3: Distribution of forms of electoral violence in March and April 2014 based on MESN observers.

Form of violence	March			April			Two months total
	North	Centre	South	North	Centre	South	
Disruption of political campaign meetings	2	1	7	3	3	9	25
Places designated as 'no-go' zones	0	1	6	0	1	1	9
Intimidation and harassment	4	1	10	7	8	9	39
Electoral violence	1	1	7	0	6	8	23

Sources: MESN LTO reports for March and April 2014.

Not all of these cases were reported in the media. Some of them are clearly not newsworthy from an editorial point of view but have huge significance on the quality of electoral democracy. Neither did MESN observers capture all incidents as they operated only in 84 of 193 constituencies. Without a properly institutionalized mechanism for detecting incidents of conflict and violence, authorities act with limited information. Where low level incidents of electoral violence are left unabated and simmering, they usually erupt and cause greater irreparable damage to lives and property⁵⁵. But such cases are rarely reported by the media and election managers lose out on useful information for planning and improving the quality of the electoral process.

The shortfalls of the MEC in relation to the adoption and implementation of a conflict cycle approach does not mean that electoral conflicts and violence are wholly left unabated in Malawi. There are several mechanisms that are used to prevent and mitigate electoral conflicts and violence as described below.

6.1 Mechanisms for addressing inter-party conflict and preventing violence

In the last twenty years of a democratic experiment, several institutional mechanisms have been used to address inter-party conflicts and violence. These include adjudication by the courts, arbitration and mediation by Multiparty Liaison Committees (MPLCs) and consultative election management by the MEC through the National Electoral Stakeholders Forum (NECOF).

6.1.1 Adjudication by courts

The history of the involvement of the Malawian courts in addressing electoral conflicts and disputes has been tracked back to the 1950s during the transition to African majority rule⁵⁶. Since then, the role of the courts has taken four dimensions, namely to serve as a forum of accountability; a safety valve, internal arbiter and political leverage⁵⁷. Electoral disputes or conflicts that revolve around irregularities

⁵⁵ The Organization for Security and Cooperation in Europe (2009) Moldova, Parliamentary Elections. Final Report. Warsaw.

⁵⁶ Kanyongolo, Fidelis (2009) 'Back to the Courts: Legal Battles and Electoral Disputes' in Martin Ott and Fidelis Kanyongolo (eds.) Democracy in Progress: Malawi's 2009 Presidential and Parliamentary Elections (Kachere Books No.48)

⁵⁷ Gloppen, S and Fidelis Kanyongolo (2004) The Role of the Judiciary in the 2004 Elections in Malawi in Martin Ott et al (The Power of the Vote (Kachere Books)

in the electoral processes or lack of strict adherence to the requirements of the law are adjudicated by the High Court, often through petitions for judicial review. Incidents of violence, however, go through the criminal procedure. In many instances, the perpetrators are not apprehended or are not charged. Furthermore, the victims receive little or no redress and more importantly, the causes of the violence often remain unexamined and the whole process seems too distant from elections.

6.1.2 Multiparty Liaison Committees (MPLCs)

MPLCs are local conflict management structures that became functional in the year 2000 during the first local government elections since the transition to multiparty democracy. However, the motivation for their creation arose from violent incidents during the 1999 general election summarized below:

Two teachers who came from the northern region which was at that time a support base of an opposition party, AFORD, were banished from Mangochi, a Muslim-dominated town in the southern region that was and still is regarded as a traditional support base for the UDF, which in 1999 was the party in Government. The teachers were seen as supporters of the opposition alliance involving AFORD and MCP which attempted to unseat the UDF government. The incident was reciprocated with violence in the northern region where five mosques were burnt down as well as property of a former UDF cabinet Minister. This, in turn, was followed by a torching of churches and properties belonging to opposition political parties in Mangochi⁵⁸.

MPLCs are inclusive bodies at the district level with the mandate to manage electoral conflicts. They consist of local representatives of political parties, local government officials, and traditional chiefs, the police, CSOs and youth wings of political parties. MPLCs are chaired by the District Commissioner⁵⁹. Although the MPLCs face some challenges, they are widely hailed to have contributed to prevention of conflicts at the district level. MPLCs lack uniformity of approach in their operations and their reporting mechanism to the MEC is rather weak. The decisions of the MPLCs are effective only at the local level but are sometimes resisted or ignored by party officials at higher levels, i.e. regional and national levels. MPLCs, however, lie dormant for most of the electoral cycle and become alive only in the polling years⁶⁰.

6.1.3 National Elections Consultative Forum (NECOF)

The NECOF is a forum that is managed by the MEC. It brings together electoral stakeholders at national level including the representatives of political parties, the Police, International Development Partners, and CSOs. The NECOF meets at regular intervals and whenever need arises. Conflicts and violence are only a small part of the issues that NECOF deals with as its mandate relates to the entire electoral cycle. Nonetheless, NECOF has so far served well as a conflict prevention mechanism. Besides providing accountability space for MEC and collecting inputs from the stakeholders into the management of the electoral activities, the forum has enabled preemptive discussion of issues that would brew tension and potentially escalate into conflicts. In this way, the forum has been used to ascertain facts, dampen the effects of rumor-mongering and has given every stakeholder a real opportunity to air out their reservations on certain things and seek collective solutions. The degree of transparency and the inclusiveness of the NECOF have been crucial in limiting the potential of latent conflicts escalating into open conflicts and violence.

58 The Nation, 21 and 22 June 1999.

59 Mwale (2010), Gloppen et al (2006), Patel (2006), EISA (2009).

60 Mwale (2010)

6.1.4 Codes of Conducts

Over the years, the MEC has developed codes of conduct for various players in the electoral cycle including the media, political parties, civic education providers and traditional leaders. All codes contain clauses for the various stakeholders not to carry out acts or make decisions that create conflicts or fuel violence and to promote peaceful elections. However, the nature and details of incidents of electoral violence collated for this paper show that many times the codes of conduct are traversed, sometimes with impunity, and such breaches do actually result in violence. Hate language by politicians at rallies, irresponsible and insensitive language used in some media reports, traditional leaders banning out opposition political parties from carrying out campaign meetings in their jurisdiction areas, etc. have been recurrent. It has been recognized that the codes of conduct lack enforcement mechanisms. Consequently, a reform proposal has been made to convert all codes of conduct into regulations under statute to make them legally enforceable⁶¹.

Besides the codes of conduct, in a bid to promote peaceful elections, the Public Affairs Committee (PAC) has in each election year implemented projects on conflict prevention and management. A flagship intervention has been 'shuttle diplomacy' through which the religious leaders engage with political parties to develop Election Peace Accords. These Accords are then publicly signed and endorsed by the political leaders including presidential aspirants, at a ceremony for national prayers for peaceful elections. However, the peace accords tend to focus on peace on polling day and acceptance of results or resolution of disputes over results through lawful means. The commitment comes much late in the electoral cycle and does not relate or does not address conflicts and violence in the other components of the electoral cycle. In other words, the approach reinforces the erroneous perspective in which elections are treated as an event, as opposed to a process.

6.1.5 Credibility, effectiveness and independence of the election management body

Comparative literature on electoral violence shows clearly that election management bodies have the most responsibility in preventing electoral violence. The evidence across Africa shows that violence erupts when segments of voting populations and their favored politicians conclude that the election managers are biased towards their opponents, or are under-performing on their duties, or are seen to be bending the rules of fair competition. Perceptions of an electoral process that is not credible engender violence⁶². Thus, election management bodies should strive for logistical capacities, operational independence and other technical and administrative capacities for managing and delivering credible electoral processes and legitimate outcomes.

6.2 Mechanisms for addressing intra-party conflict and violence

Intra-party conflict is on the rise in Malawi. If there is one conspicuous lesson from these conflicts, it is the fact that political parties lack robust internal mechanisms for preventing, managing and resolving conflicts⁶³. Electoral conflicts within the parties have largely revolved around the politics of candidate selection. There are two observable mechanisms through which these have been addressed. The first is judicial adjudication through originating summons and judicial review procedures on the basis of

61 National Task Force on Electoral Reforms (NTER) Consolidated Issues and Recommendations Paper for Electoral Reforms. Available at www.mesn.org/publications.

62 Orgi (2013) Darnolf (2013)

63 Kanyongolo, Fidelis (2009); Patel and Mpesi (2009).

the party constitutions⁶⁴. In nearly all political parties, potential candidates have simply walked away and either participated in the election as independent candidates or withdrew completely. Addressing intra-party conflicts and violence will require that political parties invest in building clear and fair rule-frameworks for governing primary elections. Issues such electoral college, impartiality of administrators, as well as rules on ethical standards and principles of equity, especially in the use of money, require addressing. However, primary elections are viewed to be an exclusive province for the political parties. Many of them are unlikely to subscribe to the implementation of such reforms, as their leaders benefit from the chaotic politics of candidate selection. Nonetheless, the ongoing electoral reforms proposed the enactment of a political parties Act that would regulate these issues and bind in law all political parties taking part in the electoral process⁶⁵.

6.2.1 Early warning mechanisms for electoral violence

An early warning system for electoral violence means conditions or procedures implemented by several stakeholders under the joint leadership of the EMB and internal security services, devised to indicate a potential occurrence of an open conflict and election-related violence⁶⁶. Malawi does not yet have an institutionalized early warning system for electoral violence that stakeholders such as the Electoral Commission, security forces, and CSOs can use to prevent electoral violence. However, CSOs (i.e. PAC and MESN) attempted to identify hotspot constituencies even though the criteria used are quite unclear. The need for a systematic violence risk analysis of the electoral process in Malawi cannot be overemphasized. Developing such a system requires identifying triggers of electoral violence through an in-depth qualitative study of patterns of electoral violence that occurred, and matching them to the different stages or components in the electoral cycle⁶⁷. This will identify the kind of behaviors that are likely to orchestrate conflicts and violence in each stage of the electoral cycle. It will show which form or type of electoral violence is likely to occur and what preemptive measures could be taken. Thus, a proactive approach involving stakeholders such as election managers, security services, political parties, and CSOs should be deployed to minimize or eliminate potential for electoral violence.

7. Conclusion and recommendations

Based on the foregoing analysis, the following key conclusions are drawn.

Over the last four general elections, incidents of electoral violence have been decreasing generally. A disaggregation of data shows that while inter-party violence has been decreasing, intra-party violence has been increasing, especially in the ruling parties. Furthermore, inter-party violence has been perpetrated more by agents of the ruling parties through their youth wings. Progressive improvements in the quality of the electoral process may eliminate inter-party violence while support to political parties to establish clear rule-frameworks for candidate selection may significantly reduce the occurrence and intensity of intra-party violence.

64 See Kanyongolo (2009).

65 See NTER (2015) Issues and Recommendations for Electoral Reforms (MESN).

66 Orgi, Mkwachukwu (2013) Making Democracy Safe: Policies Tackling Electoral Violence in Africa, *Terrorism and political violence*, 20(3); Opitz, Christian et al (2013) Including Peace: The Influence of Election Management Bodies on Electoral Violence, *Terrorism and Political Violence*, 7(4).

67 Bardall, G. (2010, March). *A conflict cycle perspective on electoral violence*. Retrieved from: <http://www.ifes.org/Content/Publications/Articles/2010/AConflict-Cycle-Perspective-on-Electoral-Violence.aspx>

Electoral violence is often a manifestation of people's expressions of grievances such as: real and perceived social and economic exclusion; threats to livelihood occasioned by changes in the configuration of political power mediated by elections in a context of pervasive patrimonial politics; and primacy of identity politics and lack of intra-party democracy. There is need for a harmonized set of interventions to help creating new political practices based on a new political culture, to attenuate identity politics over time, promote socio-economic development for all and enhance accommodative politics and democratic values in political parties. This requires supporting interventions aimed at faithful implementation of devolution of governmental and administrative authority, electoral reforms and a better and progressive legal framework for political parties.

Public trust in the Electoral Commission has been rising as measured by periodic popular attitude surveys. However, in each election year the capacity of the Commission, especially in managing election logistics, has been sub-optimal and in certain cases a recipe for electoral violence. There is need for a capacity assessment and capacity enhancement of the Electoral Commission in this regard. Furthermore, appearances of bias and the likelihood of bias sometimes fuel acts of violence. Reforms in the selection of commissioners and lines of their accountability are necessary to ensure operational independence of the Commission.

Malawi does not have an early warning system for electoral violence even though there is a semblance of a nascent system that is so far away from being institutionalized. It is necessary that the Electoral Commission and security agencies (i.e. the police) consider developing a joint operating mechanism through which they could apply a full conflict cycle approach to their entire electoral process to identify potential occurrences of electoral violence and devise preemptive and mitigation measures.

In order to prevent and mitigate electoral conflicts and violence, the following specific and actionable recommendations are offered for consideration:

- i. The Electoral Commission, jointly with the Police service, should create an early warning system for electoral violence. This entails creating an instrument to track signs and symptoms in the political domain that are predictive of occurrences of possible violence. Thus for at least the whole year preceding a general election;
- ii. The Electoral Commission, with support of NECOF and Law Commission should review and revise the law to ensure that electoral violence is more than just criminal behavior specific to individual perpetrators. It should be an electoral offence with consequences under both the electoral law and criminal law. Where electoral violence is proven to be party sponsored or party-condoned, penalties should be exacted on the political parties;
- iii. Create an electoral tribunal that will deal with electoral disputes including electoral violence so that matters are determined quickly unlike in the conventional justice system which does not respond with the urgency that is necessary in a highly charged and potentially volatile environment;
- iv. The Electoral Commission should create Electoral Regulations under the existing electoral statutes to address incidents of electoral violence. The regulations should include sanctions such as monetary fines or disqualification of parties and candidates that are proven to incite or sponsor or take part in electoral violence.
- v. Support should be extended to political parties taking part in the electoral process to develop better and enforceable rule-frameworks for their primary elections or any process they use for candidate selection. Alternatively, identify candidate selection as part of the formal electoral cycle with defined obligations for the Electoral Commission and the Police to ensure safety and security;
- vi. Political parties should be supported to review and develop conflict resolution frameworks and

- practices within their parties to minimize intra-party conflicts and violence;
- vii. The Electoral Commission and the Police should develop and institutionalize an early warning system that will entail carrying out violence risk assessments as part of the electoral and security management for elections. The system should be able to identify hotspots as well as latent issues and escalating factors that precipitate electoral conflicts and violence;
 - viii. The Electoral Commission, with the support of dedicated actors should develop and deploy a system for collection of data on election related conflicts and violence.

Preventing electoral conflicts and violence is evidently a tasking exercise. It is a multivariate and multi-stakeholder process that requires building and nurturing institutional arrangements and organizational relationships that enjoy broad-based legitimacy so that democratic electoral competition does not accord violence a place in strategies for winning elections.

Annexures**Annexure 1: Distribution of electoral conflicts and violence at district level**

Region	District	Year - per cent of district occurrences per region/ general election				1999-2014 cumulative district percentage per region.
		1999	2004	2009	2014	
Southern Region	Nsanje	18				6
	Mulanje				13	1
	Chikwawa				13	1
	Thyolo	5		7	13	4
	Chiradzulu		9	7		4
	Blantyre	50	43	27	25	40
	Zomba	9	17	13	13	13
	Balaka	5	9			4
	Mwanza	5		7		3
	mangochi	5	13	13	13	10
	Machinga	5	9	27	13	12
		100	100	100	101	100
Central region	Ntcheu		25		17	10
	Salima	17	6			8
	Dedza	6				2
	Lilongwe	39	19	75	83	44
	Ntchisi		13			4
	Nkhotakota		6	13		4
	Dowa	17				6
	Kasungu	17	19	13		15
	Mchinji	6	13			6
		100	100	100	100	100
Northern region	Mzimba	29	50	14	33	29
	Nkhatabay	29		29		19

Region	District	Year - per cent of district occurrences per region/ general election				1999-2014 cumulative district percentage per region.
	Rumphi	14		14	33	14
	Karonga	29	25	29	33	29
	Chitipa					5
	Likoma		25	14		5

Annexure 2: Illustrative cases of types of conflicts and violence across election years

Type of conflict and violence	Description of Illustrative cases	
Party-on-party	Source	United Democratic Front (UDF) versus Malawi Congress Party (MCP):
	Daily Times, 24 August 1999	A UDF supporter was beaten up by MCP sympathizers after he smashed the vehicle of MCP Treasurer General in Kasungu. The UDF supporter threw several bottles of Carlsberg beer at the rear of the vehicle when the MCP Treasurer General was coming from his rally at Kadifula Primary School. When the vehicle stopped, the UDF supporter tried to run away but was apprehended by sympathizers of MCP who administered instant justice on the man. The UDF supporter revealed that he had been sent by one of the independent candidates in the district to disrupt the meeting and when he failed he decided to smash the car. Following the incident, the UDF sent three trucks full of zealots to the district to try to single out people responsible for the beating. MCP Regional Secretary Katola Phiri warned UDF that MCP was ready for a show down.
	Daily Times, March, 2014	People's Party (PP) versus Democratic Progress Party(DPP): A policeman and civilian lost their lives in March during the violence that erupted after President Joyce Banda of had just completed a campaign tour at Goliati Trading Centre, home to Peter Muntharika, presidential candidate for DPP. The traditional leader of the area said his subjects were victimized for being loyal to Peter Muntharika after they refused to have their DPP party flags removed. Supporters of PP beat up people who had lined along the road to Goliati to see the President. Running battles broke out soon after the President left the venue of the rally where a few police officers were left to guard the team that was dismantling the podium. Incidentally, a police officer was hacked to death by an axe while a civilian was gunned down by police officers as they came under attack by villagers.

Type of conflict and violence	Description of Illustrative cases	
Party –on-voter	Daily Times, 8 October 2008, for 2009 elections 02/10/2008	DPP on a business woman: A business woman in Rumphu was beaten up by the DPP Deputy Director for Youth for refusing to have a poster of President Bingu wa Muntharika pasted on her restaurant at the district's assembly market. It was alleged that the Director of Youth also ordered the police to lock her up, claiming that she had torn the poster. "When I told him that being a business premise, it was not proper for him to paste partisan posters, he grabbed me and beat me hard, leaving the upper part of my blouse torn and in the process exposing my breasts," complained the business woman. The DPP Director of Youth shouted threats at her and the police, stressing that he was government and that there was nothing anyone could do, but comply with his orders to have her locked up. He ordered the police against giving her a letter to enable her go to hospital for a medical checkup. The DPP youth Director Corroborated: "I did not beat her. It was her who started the confrontation by refusing me to put poster of our president at her restaurant that is housed in an assembly market,". The police referred the matter to the district's Multiparty Liaison Committee because they established that the business woman was a member of AFORD.
Party –on- state	D a i l y Times, 10 September 1998 for 1999 elections	UDF on Ministry of Education Government teachers at Ngolowindo Primary were living in fear following a forced transfer of their head teacher after he allowed an opposition party, MCP to conduct a rally at the school's ground. The Head teacher was transferred on instructions from UDF District Governor. According to one teacher at the school. "Soon after the rally, the UDF District Governor came here and told us that he had already arranged with the Ministry of Education to transfer the head teacher. A week later, the head teacher was notified of the transfer through the District Education Officer." But the ministry ruled out political involvement but rationalized that the community around the school was not happy with the head teacher's behavior.

Type of conflict and violence	Description of Illustrative cases	
Voter-on-voter	Daily Times, February 17, 11/02/2004	Members of UDF on one another The UDF primary elections for Salima South East were called off after violence erupted between supporters of rival candidates. The polls were conducted at Katelera Primary School by UDF Deputy General Secretary, and UDF Director of Youth in central region. Violence began after supporters of two of the aspiring candidates protested that the officials recognized delegates only from areas where a third aspirant had many supporters. Supporters of the two-aspirant's unleashed violence on supporters of the other by hurling stones at them.
Voter-on -state	The Nation, May, 21 2004, 20/05/2004	Voters on Electoral Commission Officers At the Catholic Institute (CI) polling center in Blantyre voters beat up the presiding officer and a police officer because they suspected them of having connived with the UDF to tamper with ballot papers. Thousands of voters refused to vote on allegations that one of the ballot boxes had been tampered with. But the supervisor at the center observed that people were reacting to the rumor that one ballot box was missing. "This place initially had registered 13 stations, but that was reduced to 12. This is what has caused all this because people think one ballot box is missing".
State-on-party	Daily Times, February 23 & Nation, February 23, 2004	The Opposition Mgwirizano Coalition struggled to hold their first campaign rally at Mjamba Park in Blantyre. About 30 armed police officers stormed the park and fired teargas canisters to disperse people who had gathered for the rally. The platform was also demolished in the stamped. The problem was that just two hours before the commencement time of the rally, Blantyre city Assembly issued a stop order for the rally but the High Court granted an injunction against the order. The opposition rally coincided with a ruling party's rally in a nearby town ship within the city where President Muluza was going to speak.

Type of conflict and violence	Description of Illustrative cases	
State –on-state		<p>Since the transition to multiparty democracy, only one case of state on state electoral violence has occurred in Malawi. This was the forceful closure of the Electoral Commission by the Police, on orders of the President, in 2010 for reasons related to financial mismanagement at the time when the Electoral Commission was preparing for Local Government Elections which the party in Government did not want to proceed. In 2014 Malawi could have recorded its second incident if security forces had complied with the alleged order of President Joyce Banda to seal off the tally center where results were being collated in order to enforce compliance with her order for a re-run of the election.</p>

Mauritius

Author : Catherine Boudet



Mauritius

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Introduction

In Mauritius, like in other decolonized countries with acute social cleavages, consociation as a mode of ethnic power-sharing was implemented to curb political violence and prevent it from hindering the democratisation process. Consociational democracy was gradually set up between 1945 and 1968 to ensure a smooth political transition to independence.

Forty years after independence, international observers generally account for an overall peaceful voting process characterised by a high level of political tolerance in spite of sporadic incidents. *"Mauritius has been largely peaceful despite its heterogeneity and occasional internal conflicts, like those that occurred in 1964, 1968 and 1999"* observed the African Peer Mechanism Review in their *Mauritius Country Report 2010*. *"The voting process was peaceful, orderly and free of intimidation and the voters cast their ballots without any visible difficulties"* noted the ECF Observation Statement conducted at the 2010 General Elections whereas the SADC electoral observation mission at the 2014 General Elections considered that *"prior to, during and after the elections, the political atmosphere was generally peaceful, despite some minor isolated inter-party incidents"*.

Political violence in Mauritius is often presented as a disruptive phenomenon within an overall peaceful and harmonious model of coexistence of various ethnic cultures. This view originates in the collective trauma caused by the 1968 and 1999 riots. These two major episodes of inter-ethnic violence triggered the fear among the Mauritian population that such outbursts of violence may happen again any time. Yet, in the context of consociational democracy, can those outbursts of interethnic violence be interpreted *per se* as an indication of failure of the diversity management model?

Consociational engineering is aimed to produce stable and peaceful democracies in deeply divided societies and does so through the mediation and mitigation of conflicts. As such, consociational arrangements are usually considered by theorists mainly in terms of conflict management and conflict regulation practices. Little literature has been dedicated to their role in triggering violence and conflict. Yet it appears to us that consociational engineering can actually be averse to social peace and conflict resolution in specific ways.

Indeed, consociation actually entrenches social cleavages instead of breaking them down. As a result, *"what comes after power-sharing may not be democratic consolidation and deepening, but rather the monopolisation of power and increased conflict"* (Bogaards 2006: 124). The functioning of consociational arrangements is based on a contrast between the pragmatism peculiar to elite accommodation and the highly ethicized electoral rhetoric of the same elite to the masses (Pappalardo 1981: 365-90). Because power-sharing institutions typically seek to create a cartel among the elites of various ethnic groups, consociational power sharing may actually limit democracy by freezing the ethnic balance of power, as it was the case in East Timor, Afghanistan, Bosnia and Kosovo, explains Matthijs Bogaards (Bogaards 2006: 123). Whereas consociational arrangements are intended to distribute power, they actually contribute to increasing the monopolisation of power by entrenched groups that use their favoured position in the consociational arrangement to strengthen their hold on the political system, with adverse consequences for the consolidation of peace (Rothchild & Roeder 2005: 36; Bogaards 2006: 123).

In Mauritius, political violence has neither "decreased" nor "increased" with the implementation of consociation. It has remained sporadic but with a strong potential for intense, unpredictable and fatal outcomes. Political violence has changed in nature, shifting from pre-independence vertical violence contesting the system to a horizontal (inter-ethnic) violence. There is a difference in nature between

the 1930s riots and the riots which took place after independence, in 1968 and 1999. Political violence actually started to be ethnically-orientated only after 1959, a critical year for the enforcement of consociation in Mauritius.

For the purpose of addressing the issue of consociation and violence, we shall retain a broad definition of political violence as *“the use or threat of physical force to achieve political ends”* (Schwarzmantel 2011: 5). Political goals pursued through the use of violence are those which aim to bring *“some change in the nature and structure of society, whether that involves a change in position of some group within it, or the nature of the laws, values and norms which govern that society”* (Schwarzmantel 2011: 14).

Political and social exclusion and lack of recognition are presented by Schwarzmantel as central factors in stimulating the recourse to political violence. It can take the form of spontaneous or loosely riots, arising as a response to police brutality or to social neglect and marginalisation. In this case, violence is used as a means of calling attention to grievances that have not been attended by the political system (Schwarzmantel 2011: 6). In order to address the crucial issue of preventing and anticipating potential conflict and violence at early stage, our recommendations will have to take into account the consociational bias of Mauritian democracy and the invisible processes of coercion imposed upon the society by consociational engineering. Early warning is defined by the OECD as a process that *“alerts decision makers to the potential outbreak, escalation and resurgence of violent conflict; and promotes an understanding among decision makers of the nature and impacts of violent conflict”*¹. With this in view, this article is in itself an attempt to promote understanding of the nature of political violence in Mauritius. Before any recommendation for early warning mechanisms be formulated, it is important to acknowledge and make visible the underlying side-effects of consociation which hinder the democratic process and create potential for conflict. Otherwise, recommendations would be based upon a number of false assumptions and myths such as the assumption of problematic diversity management.

Consociational power-sharing was implemented in Mauritius in the pre-independence period (I) and ever since, communalism has plagued the society as a major factor of inter segmental conflict. However, it is only the tip of the iceberg formed by invisible mechanisms of coercion operating within the electoral system (II).

Section I - The Implementation of Consociational Power-Sharing in Mauritius

Consociational democracies are assumed to prevent ethno-political instability and violence using the institutionalised guarantee of political representation through power sharing for all major ethnic groups. Power-sharing in ethnically pluralistic societies consists in a set of measures and rules which distribute decision-making rights in order to guarantee fair and equal participation of the representatives of all main ethnic groups in decision-making; in this way, it reassures minorities that their interests will be preserved (Rothchild & Roeder 2005: 30-31).

Consociational power-sharing appears as a conflict regulation tool as it is designed to minimize the acute social cleavages of deeply divided societies and allow stable governing coalitions (Nordlinger 1972: 40-1). However, consociation is never a ready-made arrangement and power-sharing can be broadly or narrowly defined. Broadly defined power-sharing includes all practices that *“promote*

¹ OECD, 2009, “Preventing Violence, War and State Collapse, the Future of Conflict Early Warning and Response”, page 22, <https://www.oecd.org/dac/conflict-fragility-resilience/docs/preventing%20violence%20war%20and%20state%20collapse.pdf>

meaningful inclusivity and balanced influence for all major groups in a multi-ethnic society" (Sisk 1996: 9) while narrowly defined power-sharing ensures representation of all major ethnic groups in the political decision-making process only (Rothchild & Roeder 2005). This distinction impacts on the efficiency of such arrangements.

In Mauritius, consociational power-sharing is embodied in a multiparty parliamentary system which appears to be a variation of the Westminster model. The current electoral system in Mauritius was designed in the 1950s and 1960s to ensure the political inclusion of ethnically diverse population. Political accommodation of diversity was already implemented under the British rule in the 1885 Constitution.

Multiple layers of colonization and successive migration waves on an island with no indigenous population account for the multi-ethnic nature of the society. Discovered by the Portuguese (1513) and occupied by the Dutch (1638-1658 and 1664-1710) and the French (1715-1810), Mauritius was taken over by the British in 1810 who granted it its first Constitution in 1825. The slavery (abolished in 1835) and the indentured labour system which replaced it (1834-1907) shaped a plural society in which each of the various ethnic groups co-existed retaining their own specific religious practices and cultural values, each of them being entrenched in economic niches of the plantation economy: the Hindus as small planters and labourers, the Muslim, Chinese and Tamils in the retail trade, the *Gens de couleur* in the civil service and the White Franco-Mauritians in the capital-intensive sugar mill property, while the Creoles of slave descent (Afro-Creoles) remained at the margins of the plantation system as a result of the abolition of slavery and the replacement of slave labour by the indentured labourers from Asia (Benedict 1965: 19-27).

The political management of ethnic diversity through consociational arrangements originates in the British practise of accommodation of ethnic elites through a system of nominations within the legislative assembly (Boudet 2012: 180). The 1885 constitutional reform introducing an electoral franchise based on property favoured a progressive political inclusion of elites of all groups – except the most deprived one, the Afro-Creoles. The 1885 Constitution thus opened the door to a gradual political accommodation and a practise of mutual control among the ethnic elites (Boudet 2012: 180). As Ari Nave states it, *"recognition of the importance of ethnic membership in defining interests has led to a complex manipulation of the standard Westminster model"*².

The electoral system designed on the eve of independence drew upon this legacy. It combined for the purpose of the elections of 70 MPs at the National Assembly a first-past-the-post (FPTP) system, which is actually a three-first-past-the-post, and a "best loser" system (variable corrective). Since its independence in 1968, Mauritius has held 10 legislative (general) elections³. The country is divided into 20 constituencies returning each three MPs who get elected based on the highest number of votes, and the Island of Rodrigues two. The positions of President, Vice President, Prime Minister and Vice Prime Minister are internally distributed: according to constitutional provisions, the President of the Republic who is the head of State shall be elected by the Assembly on a motion made by the Prime Minister. The President in turn appoints the Prime Minister and his deputy. The designation of the holders of these

2 A. Nave (n.d), "Communalism as Conflict: Examples from Mauritius", p. 8. Retrieved from: <http://arinave.com/wordpress/wp-content/uploads/2012/05/Communalism-as-Conflict.pdf>.

3 General Elections in Mauritius were held in 1976, 1982, 1983, 1987, 1991, 1995, 2000, 2005, 2010 and December 2014. The legislative elections are the only ones held at national level, as there are no presidential elections in Mauritius. At local level elections are held for the designation of district and town councils.

positions typically obeys a logic of power-sharing on which the population has no power of decision.

Additionally, the Best Loser System (BLS) attributes 8 additional seats to non-elected candidates based on their community. The electoral arrangement combining a constituency-based block vote and the BLS was enforced by the 1966 Banwell Commission, two years before Independence, as a way to ensure political representation of minorities. For the purpose of institutionalizing ethnic pluralism (Boudet 2003: 325), four communities were officially recognized in the British censuses and further embodied in the Constitution of Independent Mauritius: “Hindu”, “Muslim”, “Sino-Mauritians” and “General Population”. The official percentage of each community used to calculate the allocation of “best loser” seats in Parliament is based on the 1972 census, according to which the Hindu community accounted for 51.8% of the total population, the General Population for 28.7%, the Muslim community for 16.6% and the Sino-Mauritians for 2.9%⁴.

However, the BLS was only one of the three consociational principles enforced in Mauritius (1) to curb social unrest and (2) replace it by ethnic mobilization. As a result, political violence in Mauritius has to be understood in relation with the consociational setting combining elite accommodation and popular acquiescence.

1.1 The Four Principles of Consociational Power-Sharing Applied in Mauritius

Consociations, first theorized by Arend Lijphart in the 1960s, are political arrangements based on the sharing of power among political elites representing the various segments of plural society. Elite cooperation in consociational democracies takes the form of executive coalitions in which the leaders of all main segments of the society are represented. In his ground-breaking work, *Democracy in Plural Societies* (Lijphart 1977) Lijphart examines how this type of democratic system helps achieving political stability in cases of plural i.e. severely fragmented societies.

Consociational arrangements are favoured in societies which are so deeply divided into distinct religious, ethnic, racial or regional segments that these cleavages may threaten to burst into conflict. In order to avoid violent conflicts and bloodsheds, the electoral competition is tempered by elite accommodation and power-sharing, upon the assumption that each group will feel safer in the democratic process if they have the guarantee that their interests will be safeguarded at State level through political representation by their respective elites.

Lijphart (1977: 25–52) identified four necessary features of consociational systems: executive power sharing among elites of the various communities, proportionality (in the voting system as well as in the allocation of state positions and resources), segmental autonomy and minority veto.

As Lijphart explains, executive power-sharing means “*the participation of the representatives of all significant groups in political decision-making, especially at the executive level*” (Lijphart 2002: 39). It takes the form of grand coalitions of elites representing their respective groups. The group autonomy principle means that “*these groups have authority to run their own internal affairs, especially in the areas of education and culture*” (Lijphart 2002: 39).

⁴ According to more recent statistics, in 2012 the Hindu community still retained the biggest share in the Mauritian population even though it has slightly decreased to 50%. The General Population (32%) and the Muslims (17%) have slightly increased their respective share. The share of the Sino-Mauritians has remained steady (1% of total population). World Bank Group, *Mauritius Systematic Country Diagnostic*, June 2015, pp. 1-2.

The principle of proportionality allows all groups to influence political decisions in proportion to their numerical strength (Nordlinger 1972: 23). Therefore, proportionality is a two-fold principle: it consists in a mode of allocating public goods on the basis of group size, and it is a legislative function complementary to the grand coalition (Halpern 1986: 191).

Minority veto or mutual veto is a consociational device which provides that governmental decisions cannot be taken unless they are acceptable to all major segments of the society (Lijphart 1977: 24-25). It is a major conflict regulation tool employed to prevent the creation of a permanent minority and to avoid that a minority be outvoted by the majority. Minority veto gives each segment a complete guarantee of political protection especially on decisions that affect their vital interests, when failing to do so could endanger inter segmental elite cooperation (Lijphart 1977: 36-37).

These four institutionalized criteria of consociation account for the conflict-regulation potential of consociational arrangements but defeat their purpose when flawed. Eric Nordlinger also identifies informal practices which may appear as effective conflict-regulating mechanisms, but which *"are not that at all"*, like patronage and clientelism (Nordlinger 1972: 33). We shall see that political intimidation fits in this category too.

In order to be effective, consociation requires the allegiance of segments to their political elites engaged in accommodation strategies. Practices of clientelism thus become instrumental for the political elites and the political parties engaged in consociational agreements, as a way for them to maintain their ethnic "banks" of votes. Clientelism allows them to easily obtain the acquiescence needed from the electorate to pursue their accommodation strategies. In the client-patron relationship, *"clients offer patrons social deference, economic obedience and political support in exchange for highly valued concrete benefits"* such as government jobs secured through the patron's influence, preferential loans, money, food, political influence in general (Nordlinger 1972: 81). In this way, clientelism and the eventual afferent practices of corruption form part of the negative by-products of consociations (Luther 1999: 8-10).

In Mauritius, the criteria defining consociational power-sharing apply, with the exception of minority veto. We shall investigate further the informal role played by clientelism and political intimidation in the shaping of segmental acquiescence to consociational arrangement, thus palliating the shortcomings of formal criteria.

1.2 The Enforcement of Consociation: from Class Mobilisation to Interethnic Riots

Mauritian consociation was set up in several stages from 1945 to 1968, as were successively introduced the coalescent leadership in the legislative and in the executive, the proportionality principle and the group autonomy (Boudet 2003: 326).

Social unrest of 1937 and 1945 on the sugar plantations prompted the British colonial government to engage a series of constitutional reforms in order to grant political rights to the dominated groups of

the Mauritian plural society⁵. Between 1937 and 1943, a series of strikes and riots had burst out on the plantations. Sugar workers and small sugar planters, who were mainly of Hindu descent, claimed for better wages and a democratized access to the sugar technologies (Storey 1993: 242-3). These were the monopoly of the sugar oligarchy, which comprised mainly Whites of European descent as well as a minor fraction of landowners pertaining to the Muslim, Hindu and *Gens de couleur* groups⁶. The outbursts of violence on the sugar plantations epitomized the attempt of the dominated group to challenge the social order of the hierocratic plural society⁷.

The female sugar labourer Anjalay Coopen who was shot dead in the 1943 riots became an iconic figure of the political mobilization which characterized this period of unrest. In 1943, the labourers of several sugar estates had organized marches and work stoppages to protest against deplorable working and living conditions on the sugar estates. In September 1943, the strikers of the Belle Vue Harel Sugar Estate organized a *baïtka* (prayer meeting) on the grounds of the estate. The strikers opposed the police who had given the order to disperse. The police opened fire, as a result of which 32 workers were wounded and three were shot dead, among them Anjalay Coopen, a pregnant female sugar worker.

Belle Vue Harel, the sugar estate where Anjalay Coopen was killed, was owned by the Gujadhurs, a wealthy family of Indian origin belonging to the sugar oligarchy, which indicates that the riots were not ethnic in nature but aimed at contesting the colonial order (Boudet 2003: 326-7). The 1930s and 1940s unrest was channelized by the Labour Party, the first mass party created on the island. Founded in 1936 the Labour Party advocated for the universal suffrage and political representation for sugar workers, dockers and artisans.

In order to curb social unrest, the colonial government introduced a system of consultative committees⁸ to discuss the electoral reform; the two priorities on the agenda of the committees were the introduction of ethnic representation within the legislative assembly and the enlargement of the franchise. For the first time, the traditional elites i.e. the Whites and *Gens de couleur* sat at the table of negotiations with the representatives of the Hindus planters and of the Creole dockers and artisans (Simmons 1982: 99). The 1945 and 1946 consultative committees thus constituted the first steps in the implementation of the grand accord in Mauritius (Boudet 2003: 326).

5 Burton Benedict in 1965 described the Mauritian setting as a plural society, following the definition of J.S. Furnivall of plural societies as segmented social entities composed of distinctive but interdependent ethnic groups within one economic and political system. The sugar plantation and the monocrop sugar economy had been the cradle of a Mauritian plural society composed of groups from various historical migration waves: African slaves, Indian labourers, Chinese and Muslim merchants and White landowners. Benedict B. 1965, *Mauritius: The Problems of a Plural Society*, London, Institute of Race Relations, Pall Mall, 72 p.

6 In Mauritius, a sugar oligarchy gradually emerged after 1825 when Mauritius gained preferential access on the British market for its sugar exports. It was composed mainly of planters of European descent who had acquired monopoly over the capital-intensive industrial production of sugar and had managed to maintain their dominant position due to intense lobbying on the colonial State. Boudet C. 2006, "Une minorité ethnique dominante et son identité face à la décolonisation : l'émigration franco-mauricienne en Afrique du Sud (1947-1968)", *Journal of Mauritian Studies* n°3(1), pp. 26-49.

7 The Mauritian society in the colonial period was hierocratic in nature as it was coercively organized in a socio-economic pyramid combining ethnic groups which were economically interdependent and complementary within the plantation economy, but considered culturally and even racially unequal, under the domination of the White minority of European origin (the "Franco-Mauritians"). The dominant White minority drew its economic power from the collaboration with the colonial state. Even though economic elites emerged within the subordinate Asian groups (Hindu and Muslim) when wealthy members of these groups managed to penetrate the capital-intensive sugar industry and form part of the sugar oligarchy, these would still be considered as culturally inferior to the White elite. Boudet C. 2006, *Ibid.*, pp. 26-49.

8 In the wake of the 1945 and 1946 consultative committees, a new Constitution was drafted which enshrined cultural pluralism in the Constitution and granted the right of vote to all those who could write at least their name. While the White Franco-Mauritians had formerly accounted for the three quarters of the electorate, the political community was then multiplied by ten and the Hindus henceforth constituted 76% of the electorate. Lau Thi Keng, J.-C., 1991, *Interethnicité et politique à l'île Maurice*, Paris, L'Harmattan, p. 60.

The coalescent leadership principle was further consolidated by four constitutional conferences between 1955 and 1965 (Boudet 2003: 326). These conferences were convened in London to allow political elites from all four main parties discuss the electoral reform and the political status of the island. Universal suffrage and minority representation were debated in the 1955 and 1956 Constitutional Conferences. The final constitutional status of the island was debated in the 1961 and 1965 Constitutional Conferences.

Consociation was further strengthened and installed in the executive with the first autonomous government in 1964. Semi-autonomy was granted to Mauritius in 1961. The executive power-sharing was formalized in 1964. It was embodied in a government of national union comprising the representatives of the main political parties sitting in the legislative assembly: The Labour Party (mainly Hindu), the *Parti Mauricien* (mainly White and Creole-based), the Independent Forward Block (mainly low caste Hindus) and the *Comité d'Action Musulman* (CAM - Muslim-based). Five years later, in 1969, the first government of Independent Mauritius would also be a government of national union, reuniting the former adversaries who had opposed each other over the issue of independence: The Labour Party and the CAM on the one hand and the *Parti Mauricien* on the other hand.

Along with coalescent leadership, the proportionality principle was also introduced in the legislative assembly, but not the minority veto. Together with the universal suffrage, the 1959 Constitution introduced a system of corrective nominations to ensure community representation in the legislative assembly. Under this corrective system known as the “good loser” system, and refined in 1966 into a Best Loser System (BLS), communities underrepresented in the elections were allocated corrective seats in the legislative assembly⁹.

As a legislative function of proportional allocation of seats on the basis of group representation (Halpern 1986: 191), the BLS implemented in the wake of the discussions on independence was both a proportionality principle and a power-sharing tool. Described by the first schedule of the Constitution as a mean to “ensure a fair and adequate representation of each community”, the BLS aimed to foster interethnic peace by enhancing equal access to political opportunities. However, no minority veto was attached to the BLS principle, which remained a narrowly defined power-sharing tool ensuring only symbolical representation.

Power-sharing is not per se a synonym of consociation. What makes consociational power-sharing distinctive is the fact that it mandates the essence of power-sharing across communities through formulae of proportionality and autonomy (O’Leary 1993: 37). While remaining an incomplete power-sharing device in terms of minority rights protection, the BLS has played a major role in the ethnicization of electoral campaigns and dissemination of the consociational culture within the Mauritian society.

In consociational settings, the pragmatism characterizing the relationships among elites’ contrasts with the dramatic tones used by the same elites to mobilize the masses. Through continuous repetition of ethnic cleavages, those messages revive and maintain the mass division which justifies elite cooperation (Pappalardo 1981: 370). As a result, consociational arrangements tend to feed hostility and mutual resentment between the various segments of society, while reinforcing the acquiescence and political

9 The BLS provides reserved seats to correct any possible ethnic imbalance in the result of General Elections. It assigns eight seats to the most successful unreturned candidates (the “best losers”) based on their ethno-religious affiliations in order to ensure “fair and adequate representation of each community” in Parliament, as enshrined in the first schedule of the Constitution. After the results of the elections, it is up to the Electoral Commission to determine with the use of the D’Hondt formula which communities are the most poorly represented in Parliament.

deference of these segments to the elite. In the process, as Matthijs Bogaards states it, “*consociational practices reward communal politicians*”, giving them incentives to continue to play the ethnic or racial card (Bogaards 2006: 121).

The implementation of the proportionality principle in the electoral system through the BLS induced inter-ethnic political competition, stirring up inter-ethnic hatred. The 1963, 1964, 1965 and 1967 General Elections and the celebrations of Independence in 1968 were plagued by violent inter-ethnic clashes. What was at stake was not mere ethnic identity preservation but a “*politics of entitlement*” (Horowitz 1985: 186), each community claiming fair representation and due share in the “*gâteau national*” (national cake) i.e. in the allocation of state resources.

The General Elections which followed the implementation of the good loser system were plagued by inter-ethnic conflict and the results of the elections almost systematically gave rise to complaints about community underrepresentation. At the 1959 General Elections, the *Parti Mauricien* denounced overrepresentation of the Hindu community in the attribution of the corrective seats. At the 1963 General Elections, the pro-Hindu newspaper *Mauritius Times* protested against underrepresentation of the Hindu community. A mass protest organised by the *Parti Mauricien* against independence nearly degenerated into a riot when tensions grew between Hindus and Creoles and the anti-riot units were sent in.

In 1964 and 1965, the *All Mauritius Hindu Congress*, a minor party advocating for the cause of the low caste Hindu community, denounced an overrepresentation of the Creoles in the government and claimed 52% of the positions in the civil service, the judiciary and the police for the Hindu community. At the 1965 General Elections, violent clashes opposed again the Creole supporters of the *Parti Mauricien* and the Hindu supporters of the Labour Party in the South of the island. One Hindu policeman and one Franco-Mauritian sugar estate employee were killed. The state of emergency was declared.

In October 1967 and in 1968 violent clashes occurred again, this time between the Muslim supporters of the *Comité d'Action Musulman* on the one hand and the Creole and Chinese supporters of the *Parti Mauricien* on the other hand. The Creole-Muslim violent clashes (euphemistically called “*bagarres communales*”) in Port Louis, six weeks before independence, escalated into general violence. The state of emergency was proclaimed over the whole country. The 1968 ethnic riots left 25 people dead.

As Nordlinger states, riots are not *per se* indicators of the failure of a consociational arrangement (Nordlinger 1972: 12). Inter-segmental conflict and violence, instead of constituting a threat to consociational arrangements (Nordlinger 1972: 40–1) can on the contrary provide further justification to elite accommodation and may well be used to proclaim an allegedly urgent need for elite coalitions (Pappalardo 1981: 370). In the process, interethnic conflict can even become an instrument of consolidation of the consociational arrangement and of its acceptance by the electorate.

The 1960s riots were closely related to the ethnicization of the electoral process. They were radically different in nature from the 1930s and 1940s riots which epitomized the rise of class-based protests. The consociational grand accord among elites was actually implemented by the British authority at the expenses of the trade union movement. Trade unions had been very active in the 1930s and 1940s to channelize social unrest and fight for the rights of the labourers and dockers¹⁰. Yet trade union leaders

10 In 1945, two main trade unions existed in Mauritius: the *Mauritian Agricultural Labourers' Association* (MALA) for the sugar labourers and small planters, and the *Engineering and Technical Workers Union* (ETWU) for the dockers and workers in the port.

were excluded from the 1945 and 1946 consultative committees (Simmons 1982: 88). Consociation was devised to curb trade unionism and favour an ethnic type of representation at the expenses of class cleavages (Boudet 2012: 181). Consequently, the ethnic cleavage which had been undergoing a process of decay under the combined effect of trade unionism and class struggle in the 1940s was purposely revived by the consociational engineering to install ethnic elites as partners in the constitutional reform (Boudet 2012: 181).

The implementation of the good/best loser system favoured political competition along ethnic lines and encouraged ethnically orientated electoral rhetoric. This was instrumental in spreading consociational culture within the electorate and within the society at large. Ethnic bashing rhetoric, such as the alleged “Hindu menace” was also instrumental in the consolidation of consociational practices. In order to mobilize its minority-based electorate (Franco-Mauritians, Coloureds, Muslims and Chinese) against the Labour Party, the *Parti Mauricien* claimed an alleged “Hindu threat” which would swamp the island if independence was granted to Mauritius. Slogans appealing to ethnic stigma were used, such as “*Malbar nou pa oule*” (We don’t want Hindus). In the aftermath of the 1963 General Elections, a Hindu woman wearing sari was publicly undressed in the street by Creole supporters of the *Parti Mauricien*.

1.3 Violence, Elite Accommodation and Popular Quiescence

The 1965, 1967 and 1968 ethnic riots also epitomized the gap installed by consociation between the elites embarked in accommodation strategies and the electorate. As Donald Horowitz puts it when analysing the relationship between “*violence and quiescence*”, the 1967 and 1968 episodes of inter-ethnic violence were opportunities for the political elites in the pursuit of their accommodation strategies: “*This periodically suited the Creole leaders who would otherwise be relegated to a permanent minority position, and of Indian leaders, who were eager to prove that the violence would not make it impossible to govern*” (Horowitz 2001: 508).

Elites engaging in accommodation strategies can compromise with one another, despite their apparent opposition in the electoral field, when they enjoy what Daalder calls the “*discretionary freedom*” (Daalder 1974: 608) that comes from their predominance over deferential and “*organizationally encapsulated*” followers (Pappalardo 1981: 365). The state of emergency declared during the 1968 riots was extended for several months after independence. It forbade political meetings thus favouring consociational accommodation of elites (Boudet 2003: 333). The population was kept ignorant of the negotiations between the two former opponents, the Labour Party and the *Parti Mauricien* to form a post-electoral coalition. The state of emergency favoured the “*discretionary freedom*” of coalesced elites to compromise with one another out of accountability to their segments.

Soon after Independence, the rise of a new party the *Mouvement Militant Mauricien* (MMM) which claimed to replace the “race struggle” by the “class struggle” prompted the newly independent coalition government to postpone the elections scheduled for 1972 to 1976. The MMM and its trade union allies responded with a series of general strikes. These turned into violent protests and led to the declaration of the state of emergency again from 1972 to 1976 (Masterson 2005: 2). A wave of arrests of political opponents followed. Significantly, once the MMM integrated the consociation grand accord after the 1982 elections, its leader Paul Bérenger – who had been among the strikers arrested and detained in the 1972 unrest – stopped advocating for class-conflict and the “class struggle” line was abandoned by the MMM.

The acquiescence of the population, forcibly obtained through the enforcement of the state of

emergency and the postponement of elections, was further reinforced by the saliency of the ethnic cleavage. The resentment of the electorate, instead of being expressed and directed towards the elites, began to be directed towards the other segments of the society under the form of inter-ethnic riots.

Section II – Invisible Coercion within the Political System

The consociational arrangement, though being successful in ensuring the transition to independence, has introduced several invisible coercive mechanisms. The political system has been affected by several shortcomings which affect the balance of power and create a high potential for discontent and conflict.

On the one hand, the proportionality principle embodied in the BLS remains incomplete as it does not apply to the executive power. On the other hand, the coalition system favours entrenched communities, a situation that hinders the application of the principle of proportionality in the public-sector recruitments. The “building block” logic encompassed in the BLS adds to the conflict potential of the consociational arrangement because it favours communalism, comprised as a combination of group solidarity and ethnic claims over state resources.

2.1 The Flawed Proportionality Principle

Consociation, which was gradually enforced in Mauritius during the decolonization period (1945-1968) favours a type of political representation where the elites are deemed to represent their respective ethnic communities.

The proportionality principle is considered as an effective conflict-regulation tool because, by allowing all groups to influence political decisions in proportion to their numerical strength, it reduces the scope and degree of the competition over state positions and resources (Nordlinger 1972: 23). In Mauritius, the BLS is acknowledged to do so by “*further distributing power*” among the communities while at the same time “*accommodat[ing] culturally learned preferences in shaping the interests of groups*”¹¹.

However, the distribution of power and the shaping of group interests raise concern. The BLS appears to be an incomplete device, with two major shortcomings, in terms of minority rights and power-sharing. As a result, it has recurrently raised suspicions over the equity of the State resources allocation.

For the purpose of the election under the Best Loser System, four communities were officially recognized by the Constitution: “Hindu”, “Muslim”, “Sino-Mauritian” and “General Population”. Two of them are defined in terms of religion (“Hindu”, “Muslim”), one in ethnic terms (“Sino-Mauritian”). A residual category, named “General Population” comprises all those who do not fit into the three previous ones. The unevenness of criteria denotes category engineering. The “*constitutionally accepted*” communities (Sithanen 2003: 2) do not correspond to actual ethnic groups except perhaps in the case of Sino-Mauritians. Eriksen contrasts these “*four ethnic categories reified in Mauritius Constitution*” with the actual number of ethnic groups that make up the Mauritian society and which may vary between four and twenty-four, depending on the social context (Eriksen 1994: 552).

The BLS is a merely a symbolical measure. It does not give any right of veto to the officially recognized minorities on the decisions which may affect their interests. This narrowly defined power-sharing device

11 A. Nave, *op. cit.*, p. 9.

reassures minorities about the participation of their representatives in decision-making at parliamentary level but does not guarantee them any power of decision in the decision-making process.

As stated by Eriksen, ethnicity in plural societies tends to be articulated in terms of group competition (Eriksen 1993). The combination of ethnic identity preservation, group solidarity and competition over state resources has been given in Mauritius the name of “communalism”. Communalism can be defined as “competitive group solidarities within the same political system based on ethnic, linguistic, racial or religious identities” (Esman 1973: 49). Communalism bears a strong potential for conflict, as these solidarities tend to “generate mutually pejorative attitudes and competitive behaviour” (Esman 1973: 49). Moreover, with the recognition of “constitutionally accepted” communities, as Thomas Eriksen puts it, “it followed that ethnic particularism and favouritism are deemed possible” (Eriksen 2004: 93). Communalism became systemically embedded while the group autonomy principle was being implemented in Mauritius. Group autonomy was recognized with on the one hand, the right enshrined in the Constitution to set up confessional schools, and on the other hand, the right granted to religious groups to run their religious affairs and the funding of religious and “social-cultural” associations by the State (Boudet 2012: 191). Socio-cultural associations such as Voice of Hindu, Kranti or Zamzam have self-proclaimed themselves the watchdogs of the proportionality system, resorting in some cases to physical intimidation, such as the attack in March 2010 of a Pentecost ceremony by Hindu-based socio-cultural group Kranti to protest against religious conversions¹².

Consociational democracy inevitably violates the rights of groups whose existence is not recognized by the State (Brass 1991: 342). In Mauritius, the Afro-Creole group is not recognized by the Constitution but included in the category “*Population Générale*”. The group lags behind all others in terms of human development indicators, which explains the feelings of injustice and exclusion commonly resented by its members, a situation described under the term of “*Malaise créole*” by Creole priest Roger Cervaux in the early 1990s. Writing about the Malaise Creole as early as 1993, another priest, now Cardinal, Maurice Piat, argued: “if the suffering involved in the Malaise Creole is not addressed, there might come a day when it will explode into violence”¹³. Nowadays, almost twenty years after the 1999 riots, this sense of grievance is still believed to “erupt in violent conduct of one sort or another”¹⁴ any time in the future again.

That the Creole group has remained largely excluded from the power-sharing decision making must be related to the fact that the proportionality principle operating formally at legislative level with the BLS has not been extended to the civil service and is reproduced informally at executive level. Ministerial portfolios and key positions such as ambassadors are supposed to be distributed “in such a way as to reflect the ‘different colours of the Mauritian rainbow’” (Sithanen 2003: 9). The flawed power-sharing principle at executive level and in the civil service gives rise to ethnic bias in the attribution of state top positions and in the allocation of state resources. Even if the Constitution provides that any Mauritian can become a Prime Minister, an implicit rule is followed according to which the Prime Minister comes from one given ethnic group – and even from a specific caste within that group, the Vaish – and the Deputy Prime Minister hails from another (Sithanen 2003, Kadima & Kasenally 2006).

The same practise of ethnic power-sharing and patronage has extended to the civil service and even to the nominations of chairpersons of parastatal bodies (Sithanen 2003: 9) to such extent that “as documented almost weekly in the Mauritian press, patronage and ethnic favouritism are widespread, and,

12 Catherine Boudet, “Socio-culturels, la montée en puissance”, *Impact*, 26 March 2010.

13 Maurice Piat, “Lettre Pastorale de l’Evêque de Port Louis”, *Le MAG*, 31st October 1993.

14 African Peer Mechanism Review, *Mauritius Country Review Report* no. 13, July 2010, pp. 25-26.

since independence, the public sector has become gradually more dominated by Hindus, that is the politically dominant group" (Eriksen 2004: 81).

Even though the appointment of ministers and other top positions may appear as an attempt to distribute authority according to ethnic affiliation – as the choice is a prerogative of the executive – these appointments are equally useful in maintaining the status quo in favour of the political elite, *"by ensuring that the most influential representatives of these groups have the most incentive for the perpetuation of the current government"*¹⁵. This exercise of ethnic balance in the executive and in state nominations is detrimental to meritocracy, as, *"at times, the price can be quite high in terms of effectiveness and competence"* (Sithanen 2003: 9).

The ethnic power-sharing coupled with the informal and flawed extension of the proportionality principle into other sections of the state and the civil service have allowed some social mobility among the groups, except for the Creole minority: *"It could be argued therefore that Mauritius has to a great extent achieved a viable, if precarious, model of power sharing, ensuring members of all ethnic groups the possibility of social mobility along different lines. (...) this holds true with one notable exception (...) working-class Creoles are generally faced with poorer opportunities than other Mauritians"* (Eriksen 2004: 81).

According to the APRM Country Review Report 2010 on Mauritius, perceptions by the Afro-Creoles that Hindus dominate the civil service and exclude them from political power is one major cause of potential violence¹⁶. Recruitments in the police force also have been criticized for not being inclusive of minorities and for favouring more than a proportional share of those of Indian descent. In relation to this, there are strong perceptions among the population that police brutalities may target Creoles more than other communities, according to a polemical declaration made by the Attorney General Rama Valayden in 2009¹⁷.

The 1999 riots epitomize the issue of political violence occurring in response to exclusion and lack of recognition. The resort to violence in these cases is to be understood as a demand for democratic inclusion and recognition (Schwarzmantel 2011: 6). The death -while in police custody- of Creole singer Joseph Reginald Topize known as "Kaya", on the 21st of February 1999, sparked the riots. Protests began in the neighbourhood where Kaya lived, and quickly spread throughout the capital. Demonstrators assumed that the singer had been beaten to death by the police. Seeing this as an evidence of the discriminations against their group, the rioters, mainly Creoles, blocked main roads, looted and ransacked police stations and public buildings such as the Citizen Advice Bureau¹⁸. Spreading to three main towns, the riots further developed into Creole/Hindu clashes. They continued for three days as a result of which the Special Mobile Force was called in and the state of emergency was declared. Violence calmed down by 6th February after the appeal to peace from religious leaders and former President of the Republic Cassam Uteem.

Poverty, exclusion and frustration were important catalysts for the riots. Kaya was described as *"another victim of the system"* (Boswell 2006: 160). Despite the fact that Mauritius has experienced substantial growth since independence (with an expansion of GDP per capita of 4.5% between 1969 and 2013)

15 A. Nave, *op. cit.*, p. 10.

16 African Peer Mechanism Review, *op. cit.*, p. 64.

17 "Le ministre de la Justice, Rama Valayden: 'Les créoles souvent victimes de brutalités policières'", *Le Défi Quotidien*, 27 September 2009.

18 "Rioting in Mauritius set off by jail death of singer", *The Guardian*, 25 February 1999 and "Reggae rage in Mauritius", *The Economist*, 25 February 1999.

poverty has kept increasing (from 8.5% in 2007 to 9.8% in 2012)¹⁹. As explained by the *Mauritius Country Diagnostic Report 2013* of the World Bank Group, this is associated with an increase in income disparity and the fact that the bottom 4% of the population have seen their living standard deteriorate over time²⁰. According to statistics, two groups, namely the Hindus and the General Population have become poorer²¹. However, it is difficult to statistically assess to which extent Creoles are affected by poverty comparatively with other groups, as they are not recognized as an official community. Yet, as shown by Geetanjali Gill from a fieldwork in Goodlands, a majority of Afro-Creoles (78%) fall in the ultra-poor category. This is largely due to the discrimination and prejudice they face in education and employment²².

Despite the existence of a welfare state implemented at independence to cater for the needs of the population²³ a number of ethnically-based clientelism practices actually hinder the equitable redistribution of wealth, to the detriment of the Afro-Creoles. Additionally, to being underrepresented in state bureaucracy and politics, Afro-Creoles face obstacles in their access to state resources and institutions, particularly in the granting of permits and licenses²⁴.

The discrimination against Afro-Creoles in the access to state resources is related to the fact that the provision of services is closely monitored and controlled by some state employees and representatives who act as 'gatekeepers'²⁵. This substantiates the assumption that the clientelism prevailing in the access to state resources is closely related to organizational ethnicity. As evidenced by Thomas Eriksen, ethnic groups in the Mauritian society vary in term of degrees of group organization. This has an impact on social mobility and access to state resources. The Hindus and the Sino-Mauritians being the most organized communities, they can rely on group networking for access to employment resources and on their associations for lobbying on State officers. The Afro-Creoles being the least organized group, they cannot efficiently rely on associations or networks for political lobbying (Eriksen 1993: 14).

The fact that the 1999 riots turned into inter-ethnic clashes between Creoles and Hindus evidences the perceptions of inter-group competition on the state resources. As such, they substantiate our hypothesis that consociation instils inter-ethnic conflict. *"Neither of the groups wished to annihilate, enslave, or dominate the other (...). Rather, the Creoles revolted against particularistic practices in the public service curtailing their individual social mobility and depriving them of equal treatment"* (Eriksen 2004: 93-94). The inter-ethnic political competition encouraged by the consociational electoral tools (such as the Best Loser system, as seen above) plays an important role in building up perceptions. Statistical studies show that the Sino-Mauritians are the wealthiest ethnic community and have substantially improved

19 World Bank Group, *op. cit.*, p. 13.

20 World Bank Group, *op. cit.*, pp. 1-2.

21 World Bank Group, *op. cit.*, p. 7.

22 When the best way to escape poverty is employment, as shown by the World Bank Group country diagnostic on Mauritius 2015, the ethnic segmentation of occupations has placed Afro-Creoles in the least paying and most insecure types of employment. Geetanjali Gill argues that negative discrimination and stigmatization in employment and education hinder the access of Afro-Creoles to employment opportunities and occupational mobility, entrenching them in low-paying and insecure occupational sectors. She also discovered that experiences of discrimination at school and at work lead to the self-exclusion of Afro-Creoles from education and employment. Geetanjali Gill, "Understanding the Linkages between Poverty and Ethnicity in Mauritius", a presentation of research findings done under the aegis of the Ministry of Social Integration and Economic Empowerment, Port-Louis, 12 August 2010.

23 World Bank Group, *op. cit.*, p. 13.

24 *"In Goodlands, Creoles spoke at length about their encounters with discriminatory state representatives in various state institutions. Due to such encounters, they felt disadvantaged compared to other ethnic groups in their ability to access state resources and services. Also, the expectation of discrimination may deter some Creoles from approaching and making claims on the state"*. Geetanjali Gill, *op. cit.*

25 These State 'gatekeepers' who guard or mediate access to important State resources are mainly non-Creoles. Citizens have to draw upon social relations with them to gain favourable access to the state, as a result of which the ultra-poor Afro-Creoles who cannot rely on social ties with those gatekeepers are disadvantaged: *"Biases and prejudice can affect such actors' behaviour and their treatment of those who come to them for help, with important implications for poverty"*. Geetanjali Gill, *op. cit.*

their condition over time, whereas the Hindus and the General Population –of which Creole form part– have become poorer over time and contribute most to the share of poverty²⁶. As Gill evidenced it, even ultra-poor Hindus have been deprived of state welfare assistance²⁷. However, the electoral slogan of an alleged “Hindu peril” coined in the 1950s and 1960s has heavily contributed to create and foster distorted perceptions regarding the competition between Hindus and Creoles over state resources (Boudet 2012:177-193).

2.2 The Coalition System and Monopolisation of Power

The essence of consociational democracies being elite power-sharing, coalescent leadership is identified as a major condition for successful consociationalism and peaceful democracy in plural societies. Coalescent leadership or “grand accord” as a consociational tool is based upon the assumption that democracy is possible in deeply divided societies when power is shared rather than monopolized. Power-sharing aims to prevent one dominant group to capture state power relegating minorities into permanent opposition (Bogaards 2006: 119).

The coalition system can limit democracy by creating a cartel of ethnic elites (Rothchild & Roeder 2005: 36). Conflict may arise when entrenched groups try to take advantage of the consociational arrangement to strengthen their hold on political power (Bogaards 2006: 123). Coalitions contribute to the bias, increasing monopolisation by entrenched groups that use their bargaining power within the coalition. Though the coalition system was supposed to help in maintaining peace and preventing or reducing potential inter-ethnic tensions, coalition politics have instead begun to “*cause some disquiet*”²⁸.

In Mauritius, coalition politics resulting from the FPTP system have led to a confiscation of power by mainstream parties. This is because the electoral “winner-takes-all” system results in skewed representation, as acknowledged by the Sachs Report on Constitutional and Electoral Reform in 2002²⁹. The FPTP creates a large imbalance between the share of votes cast and the number of seats secured by the winning coalition in the National Assembly. In the 2010 elections, the winning coalition *Alliance de l'Avenir* secured 49.31% of the votes and won 41 seats (68% of seats), compared to 42.46% of the votes and 18 seats (32% of seats) for the *Alliance du Coeur*. The BLS corrects the under-representation of ethnic minorities but not the skewed representation.

Coalitions in Mauritius take the form of pre-electoral alliances between parties, none of which can secure a majority of seats in the National Assembly by itself. The party coalition system was recommended by the Banwell commission in 1966, as a way to counterbalance the centrifugal effects of the ethnic vote under the BLS. Indeed, the implementation of the good loser system in 1959 led to the creation of mono-ethnic parties³⁰ and encouraged outburst of ethnic hatred related to political competition during the electoral campaigns, especially in 1965. In an attempt to temper the ethnicization of parties,

26 World Bank Group, *op. cit.*, p. 7.

27 Ultra-poor and poor non-Creoles (especially widows and female heads of family) were often ignored and even mistreated by non-Creole State representatives of their own ethnic groups. Poverty being negatively associated with laziness, non-Creole state representatives tend to consider that the members of their own ethnic groups who try to access State welfare assistance are tarnishing the image and status of their groups. Geetanjali Gill, *op. cit.*

28 African Peer Mechanism Review, *op. cit.*, p. 52.

29 “The three member constituencies frequently produced results which were grossly disproportionate to the share of votes obtained by the different parties. At times, although obtaining a substantial percentage of the popular vote, the Opposition was completely or nearly completely eliminated”. Sachs A., Tandon B.B. & Ahnee R., *Report of the Commission on Constitutional and Electoral Reform* 2001/02, 2002, paragraph 33.

30 Ethnically-based parties such as the *Tamil United Party*, the *Telegu League*, the *Muslim Democratic League* were created in the wake of the introduction of the good loser system in 1959. Those monoethnic parties disappeared after independence, as well as the CAM.

the block vote (first-three-past-the-post) formula was implemented in 1966. It made compulsory for political parties to form pre-electoral inter-ethnic coalitions in order to get elected.

The first coalition in post-independence Mauritius was the 1969 post-election government of national unity. It took the form of a *"marriage of convenience"* between the Hindu-dominated pro-independence party, the Labour Party, and the Creole and White dominated anti-independence *Parti Mauricien Social Démocrate* (PMSD) (Kadima & Kasenally 2006: 96). The coalition brought together the two main pre-independence parties, also accommodating ethnicity in the process.

However, the coalition system has not allowed minimizing the ethnic cleavage. Despite the fact that mainstream parties officially present themselves as national formations that cut across all ethnic groups, the reality on the ground is that most of them draw their support from a particular ethno-electoral baseline (Sithanen 2003, Kadima & Kasenally 2006). The Labour Party and the *Mouvement Socialiste Mauricien* (MSM) compete for the Hindu vote. The *Mouvement Militant Mauricien* (MMM) and the *Parti Mauricien Social Démocrate* (PMSD) compete for the Creole vote. The majority of the Muslims tend to vote for the *Mouvement Militant Mauricien* (MMM) (Eriksen 2004: 80). This translates into *"parties having safe seats in constituencies where one particular ethnic group is in majority and it throws its support behind them"* (Sithanen 2003: 3).

The three-member constituency first-past-the-post electoral system compels political leaders to resort to coalitions in order to spread across ethnic barriers to catch votes (Kadima & Kasenally 2006: 95). Pre-electoral coalitions celebrate and symbolically reproduce national unity: *"all political parties want to be seen to be politically correct by presenting an inclusive government encompassing all the ethnic groups"* (Kadima & Kasenally 2006: 103). In this respect, coalitions replay the expression of the proportionality principle, based upon the assumption that in articulating various ethnic parties, they are a reflection of multi-ethnic society.

In the process, coalitions actually have to draw on the ethnic cleavage and even reinforce it, in order to present themselves as the legitimate safe-keepers of ethnic harmony. Coalescent elites encourage and value the ethnic vote at party level whilst re-playing a scenario of national unity between communities at coalition level. This manipulative political game based simultaneously on ethnic division and on calls to ethnic unity looks like the snake biting its own tail. It eventually legitimates consociational arrangements and plays a role in bringing the acquiescence of the electorate to them³¹.

Ethnicity is also a major ingredient of coalition-making strategies, contributing further to fuel instability and conflict. Alliances are forged using ethnic logic based on the need to secure a majority base: *"pre- and post-independence elections have been marked by ethnic considerations with the 'choice' of an alliance partner determined by its ethnic co-efficient as opposed to its ideological proximity or compatibility"* (Kadima & Kasenally 2006: 84). Coalitions are an essential tool in power sharing, especially in the sharing of State top positions: *"Coalitions and alliances distinguish Mauritian politics, as different parties recognise the value of such strategies as a means of leveraging administrative and executive power for themselves"*³². As said above, the positions of Prime minister, Vice Prime Ministers, President and Vice President being filled by co-optation are shirked from the electorate power. Former minister of Finances Rama Sithanen further describes the *"office seeking strategies"* operating within coalition-making and which prevail over any programmatic commitment: *"During coalition bargaining, there is not much debate on programmatic*

31 Catherine Boudet, *"Identité nationale : le serpent qui se mord la queue"*, *Le Mauricien*, 27 November 2012.

32 African Peer Mechanism Review, *op. cit.*, p. 42.

differences and commitments. However, there are long and arduous discussions on how the benefits of power will be shared" (Sithanen 2003: 7).

Though being presented as instrumental in the promotion of national unity through representation, the coalition system actually has to do more with power-sharing among the elites who impose their strategic choices upon the electorate. Secret negotiations to form a coalition can take from one week to one year, giving way to speculations and rumours. Once the electoral agreement is signed between the party leaders, *"the packaging and ultimately the selling of these coalitions to the electorate is done with the necessary spin"* (Kadima & Kasenally 2006: 108). Coalition names celebrate solidarity and consensus : 'Parti de l'Indépendance' (1967), 'Parti d'Alliance Nationale' (1982), 'l'Alliance Bleu Blanc Rouge' (1983), 'L'Union pour le Futur' (1987), 'l'Alliance Sociale' (2005), 'l'Alliance de l'Avenir' (2010) and 'l'Alliance Lepep' (2015).

As a by-product of the winner-takes-all system, the coalition practice contributes to a confiscation of political power and a quasi-monopole of the same traditional parties over the Mauritian political landscape. The four dominant political parties since the 1970s remain the *Mouvement Militant Mauricien* (MMM), the Labour Party (LP), the *Mouvement Socialiste Mauricien* (MSM) and the *Parti Mauricien Social Démocrate* (PMSD). Since 1983, each of these parties is in an alliance with one or the other at different times, the same political partners playing *"musical chairs"* (Kadima & Kasenally 2006: 79). Coalitions allow some small parties like MSM and PMSD to use their bargaining power to leverage their position and remain in the government even though they don't have a significant share of votes³³.

Since power-sharing agreements define the political agenda, the public agenda is shaped by the coalitions. *"Basically, the parties agree before the election on a common platform and programme which they present to the nation. They also concur on how the important posts in the coalition would be shared, especially the top posts of Prime Minister, President, Deputy Prime Minister, Minister of Finance and the Speaker of the National Assembly"* (Sithanen 2003: 3).

Given their highly strategic character, coalitions are inherently unstable. Power-sharing institutions not only encourage the predatory attitude of entrenched cartels of elites, they also motivate these elites to challenge the power-sharing agreement in anticipation of defection by the other side (Rothchild & Roeder 2005: 37). As a result, *"the shifting of party coalitions is a recurrent phenomenon and since the country achieved its independence there have been nearly twice as many coalitions as there have been parliamentary elections. Few of these coalitions last and most collapse spectacularly"* (Kadima & Kasenally 2006: 73). Collapse of ruling coalitions can result from differences in policy among the partners, but most of the time they are due to power struggles related to *"perceived unfairness of the deal, measured by the number of ministerial and diplomatic appointments and posts in parastatals allotted to each of the affiliated coalition partners"* (Kadima & Kasenally 2006: 104).

Stable governing coalitions are acknowledged to be an effective conflict-regulation practice (Nordlinger 1972: 21). In Mauritius, the life cycle of coalitions follows *"a systematic pattern of triumphant electoral victory followed by alliance decay and an early poll"* (Kadima & Kasenally 2006: 84). These *"marriages of*

33 "Since 1983, the smallest of the three main parties, the MSM has been able to leverage its strong hinge position to dictate the course of events while its leader has used the 'incumbency' factor to stay in office as Prime Minister. As a matter of fact, the leader of that party has been in power as Prime Minister for 14 years since 1983 even if his party does not have more than 15 % of votes." Sithanen R. 2003, "Mauritius: Coalition Politics under the Tropics: office seekers, power makers, nation building: A case study of Mauritius", The Electoral Institute of Southern Africa (EISA), EISA Roundtable Political Party Coalitions: Strengthening Democracy through Party Coalition Building, Vineyard Hotel, Claremont, Cape Town, 19 June 2003, p. 9.

convenience" maintain political life in a state of chronic instability. For instance, between 1982 and 1995, no less than 5 general elections were held³⁴. Moreover, the electoral "winner-takes-all" system leaves no ground for the emergence of political outsiders along non-ethnic lines. Political intimidation and clientelism maintain acquiescence of the masses and preserve the inertia of the system.

2.3 Clientelism, Corruption and Political Intimidation: The Tug of War of Consociational Elites

As Eric Nordlinger stated it, when consociational arrangements are flawed with practices or disruptive shortcomings which may endanger the perpetuation of elite accommodation, some informal mechanisms are enforced which may seemingly appear as conflict-regulating, but are not (Nordlinger 1972). Clientelism and corruption are examples of these seemingly conflict-regulating informal practices which are actually negative by-products of consociation (Luther 1999: 8-10). Corruption can be broadly defined as "*the abuse of public roles or resources for private benefit*" (Johnston 2005: 12) and political corruption is corruption in which the political decision-makers are involved. Donatella Della Porta and Alberto Vannucci make a distinction between political corruption, defined as an exchange of political decisions against money, and clientelism as an exchange of favours against votes (Della Porta and Vanucci 1997). Practices of clientelism, in particular ethnic clientelism, become essential for the political elites and the political parties engaged in consociational agreements as a way to maintain their ethnic banks of votes (Luther 1999: 8-10). Clientelism and afferent practices of corruption, such as bribery and vote buying, are informal mechanisms which help maintaining the political status quo in favour of elite preservation. As Matthijs Bogaards stated it, "*consociational practices reward communal politicians*", giving them incentives to play the ethnic card; this prevents the emergence of cross-communal parties and of a different type of politics (Bogaards 2006: 121). A famous record of vote buying was the case of Ashok Jugnauth, whose election in constituency n°8 in 2005 was declared null and void by the court in 2007³⁵.

Corruption practices significantly weaken competitive participation (Johnston 2005: 12) and undermine the power of the electorate. As Nave explains, this is done so through the indoctrination of MPs into a system which provides enormous incentives to politicians to compromise group-based interests³⁶. Beside the number of advantages that MPs officially benefit from, such as high salaries and pensions, tax breaks, and a life style of prestige, there are also "*several methods allegedly used to indirectly take advantage of their position for personal financial gain*" such as tenders, building permits, or development schemes³⁷. Practices of patronage, vote-buying and bribery feed both the elite accommodation and the allegiance of the population to their elites despite the fact that these have compromised group-based interests. Coalition politics does encourage political corruption (Johnston 2005: 30). Entrenched political elites can buy off opposition parties and voters and construct backroom coalitions, thus avoiding competition while cultivating the financial backing of favoured interests (Johnston 2005: 30). This was epitomized by the electoral campaign of the latest General Elections of December 2014, when the Labour Party formed a pre-electoral alliance with his major opponent in Parliament, the MMM. The elections were held in an atmosphere of heightened suspicions and misunderstanding regarding this rapprochement between the ruling party and the leading opposition party and their agreement to change

34 J. Chan Low, "Maurice: Histoire politique de 1942 à 2005" (not dated) <http://www.cresoi.fr/IMG/pdf/mauricehistoiredepuis1942.pdf>

35 The complaint raised four matters, the first regarding the fact that the appellant had promised during a public meeting the use of government money for the acquisition of land to provide additional space for the Muslim section of the local cemetery. The other three matters concerned exercises carried out by the ministry of Health – of which the appellant was the Minister – to recruit three groups of staff in the period before the 2005 elections.

36 A. Nave, *op. cit.*, p. 10.

37 A. Nave, *op. cit.*, p. 10.

the political system into a semi-presidential system grounded in a power-sharing arrangement³⁸. As the alliance had to forcefully make the arrangement acceptable to the electorate, vote buying and bribery reached a peak during the campaign. *"So, we have reached the end of the bustling agents, posters, flyers, banners, 'baz', endless meetings, exhausting congresses, wine and whisky bottles, cigarettes, mass vehicle coordination and fuel vouchers, electoral promises and bribes. It has cost big money. Very big money"* described a young Mauritian citizen in a press forum in the aftermath of the elections³⁹. Her testimony confirms that vote-buying and bribery form part of the informal mechanisms applied by the consociational elites to maintain the acquiescence and allegiance of the masses: *"So many professional politicians feign or fail to be close to their electorate and have to resort to all types of subterfuges to attempt to hold on the reins of power. This explains the shameful 'give and vote' culture that has been breeding non-stop"*⁴⁰.

Corruption does appear as a structural violence, feeding off power asymmetry and legitimating dependency. It enforces "pseudo-collaboration", convincing people that participation in the corrupt system is the only way to personally survive and even to preserve societal order⁴¹. In the absence of a legal framework covering the financial activities of political parties to prevent corrupt behaviours, there is *"clearly a genuinely ambiguous attitude to corruption"* noticed the APRM Country Review Report on Mauritius 2010. "People are quick to condemn corruption in general, but are less inclined to do so when it allows them to gain directly in some way"⁴². As a result, the APRM Country Review Report 2010 observed that *"the very foundation of the Mauritian integrity system"* has been damaged⁴³. The competition for the control of segments of the electorate takes the form of political intimidation. Incidents related to political intimidation during electoral campaigns usually burst out in relation with vote buying and the control of political territories by political parties and their bouncers. Two famous episodes of political violence were the murder of Azor Adelaïde in 1971 and the Gorah Issah street triple murder in 1996. Azor Adelaïde, a MMM agent, was shot dead by PMSD agents in Curepipe on the 25th of November 1971. This happened in a context when the MMM tried to conquer Curepipe, the political bastion of PMSD⁴⁴. This was the first political murder in the history of independent Mauritius.

On the eve of the General Elections in October 1996, three Muslim activists of the Labour-MMM alliance, Babal Joomun, Zulfikar Bheeky and Yousouf Moorad, who were campaigning against the Muslim-based Hizbullah party were shot in the Gorah Issah street in the capital by a Hizbullah supporter. The murder was allegedly sponsored by Hizbullah leaders.

These episodes of political intimidation proved to be seminal in laying a culture of non-violence in the elections in Mauritius. The murders had such a tremendous impact on the public opinion that they prompted the elites to reject politics of extremism and to prefer *"the ballot to the bullet"* (Masterson 2005, Bunwaree & Kasenally 2006).

38 EISA Pre-Election Assessment Mission Report Mauritius, November 2014, p. 4.

39 Bhawna Atmaram, "Abstention, the silent enemy : quelle honte !", *Le Mauricien*, 11 December 2014.

40 Ibid.

41 Carl Stauffer, *"Corruption as structural violence. A peacebuilding agenda"*, <http://us.iofc.org/corruption-structural-violence-0>

42 African Peer Mechanism Review, *op. cit.*, p. 295.

43 African Peer Mechanism Review, *op. cit.*, p. 24.

44 Olivier Caslin, "L'affaire Azor Adelaïde : l'histoire du 1er meurtre politique à Maurice", *Jeune Afrique* n°2856, 4-10 October 2015.

The status quo has eventually benefited to the entrenched elites. As noticed Johnston, where building political monopolies and extracting corrupt benefits dominate elite agendas, mainstream political parties can easily buy off and intimidate opposition parties and voters. In such settings there will be few political options and organizational vehicles available to would-be reformers (Johnston 2005: 30).

Section III – Conclusions and Recommendations

3.1 Conclusions

As consociational democracy was implemented in Mauritius, it changed the nature of political violence. Instead of being down-to-top as in the 1930s, violence became mainly inter segmental, with interethnic clashes, political murders and acts of intimidation occurring during electoral campaigns.

In post-consociational Mauritius violence started to be characterized by inter-ethnic confrontations and claims over the ethnic allocation of State resources. The riots of 1965, 1968 and 1999 appeared to be a response to the covert coercion within a system of power-sharing among entrenched ethnic elites organized in coalitions. In this context, communalism which has plagued the Mauritius society as a main source of inter segmental conflict paradoxically appears as the facilitator of the Mauritian consociational power-sharing, fostering elite dominance and population acquiescence.

The issue of conflict potential and violence is therefore not about diversity management per se: *“the right to pursue a culturally specific way of life has never been threatened in independent Mauritius”*; instead, the conflict can be traced to *“certain practices in the public sphere related to socialization patterns, not to culture”* (Eriksen 2004: 93). The implementation of consociation in Mauritius has entrenched communal divisions instead of resolving them, thus planting the seeds for potentially rampant conflict.

This verifies the critics of consociation by authors like Claude Brass who stated that consociational arrangements tend to freeze existing divisions and conflicts and reduces accommodation to formulas that work as long as change processes do not upset them (Brass 1991: 342). Envisaging consociation in a mere conflict-management perspective tends to maintain a bias toward conservatism and system maintenance (Esman 1973: 52).

Democracy does require competition among elites and accountability of the elites to citizenry on policy issues (Rothchild and Roeder 2005: 37). Meaningful political reform needs political courage in order to *“break new frontiers”*⁴⁵ and set up new leadership patterns. It requires the provision of mechanisms to channel the demands and needs of the population, formulated in terms of general interest and not in terms of elite vested interests. Indeed, as Schwarzmantel stated it, the recourse to political violence is all the more probable when state channels and institutions for the reconciliation of difference are either absent or not available to those who feel that their interests, identity or culture have been neglected or marginalised. Chances to curb political violence therefore tend to increase when institutional solutions exist to re-divert violence into channels of peaceful democratic politics (Schwarzmantel 2011: 46).

3.2 Recommendations

45 Arvin Boolell, “Who is not for Free, Fair and Clean elections?”, *Le Mauricien*, 18 December 2015.

Our recommendations aim at addressing the issue of preventing and anticipating potential conflict and political violence at early stage. Our recommended mechanisms for early warning and prevention are qualitative rather than quantitative, taking into account that quantitative models are mainly predictive, whether qualitative mechanisms focus on the need for better understanding and response.

Qualitative mechanisms also tend to favour a participatory approach of the various stakeholders including the civil society⁴⁶. The necessary focus is on the political system/civil society relationship. Consociation distorts this relationship into a top-to-down conception of democracy which seeks and requires only acquiescence of the population. The restoration of a participative and consultative approach is badly needed to curb potential political violence and conflict. With this in view, our recommendations include the reinforcement of equal opportunity legislation, a better regulation of political parties funding and accountability, the reinforcement of the civil society capacities and the provision for public consultation.

- **Extend the scope of the equal opportunity legislation**

The issue of discrimination has started to be addressed by the setting up of an Equal Opportunity Commission (EOC) in 2008, with the mandate to *“work towards the elimination of discrimination, and the promotion of equality of opportunity and good relations between persons of different status”*⁴⁷. The reports of the EOC Commission have allowed understanding that ethnicity and race are the main type of discrimination invoked by complainants, together with political opinion⁴⁸.

The equal opportunity legislation applies to the socioeconomic sphere (covering access to jobs, social activities and leisure, economic activities). The political sphere and the electoral process are beyond the reach of the Equal Opportunity legislation, focused solely on the mission of promoting *“equal opportunity between persons”*, as stated in the *Equal Opportunity Act*.

In order to fight discriminations inclusively, equal opportunity legislation would have to be extended to the political system and the electoral process. This will require a reform of the existing Best Loser System, an out-dated method of community protection which is already undergoing criticism from various quarters. The BLS applying to the political sphere entertains patterns of favouritism, clientelism and patronage which go against the very founding principles of equality of opportunities for all individuals⁴⁹.

This contradicting situation will have to be solved sooner or later for it bears a serious potential for conflict. The issue of reforming the BLS falls within the scope of an electoral reform.

- **The need for electoral reform**

Electoral reform remains the key element expected to consolidate the fabric of Mauritian democracy (Kadima & Kasenally 2006: 94) towards equal opportunity and more accountability of the elites.

46 OECD, *op. cit.*, pp. 44, 46-47.

47 Equal Opportunity Commission, *2014 Report*, pp. 4-8.

48 *Ibid.*, p. 23.

49 It has to be noticed in this respect that a complaint over the obligation for the candidates to declare their ethnic community had been lodged to the UNHRC by an extra-parliamentary party, Rezistans Ek Alternativ. The UNHRC issued a decision in favour of Rezistans Ek Alternativ in 2012. Following the pronouncement of UNHRC, the Constitution was temporarily amended in 2014. According to the amended Constitution (Declaration of Community Temporary Provisions) Act of 2014, candidates had the option not to declare their ethnic community during the candidate nomination process (which however precluded him from gaining a seat under the BLS). However, this Act was valid only for the purpose of the 2014 elections. Since then, the status quo has remained.

This was acknowledged by the Sachs commission as early as 2001. The Sachs Report recognised the disproportionate distortion of the prevailing FPTP system and pledged for the introduction of more fairness in representation. More than 15 years later the political elites are still hesitating about the right formula to be adopted to revise the Best Loser System and the electoral system. The governmental attempts to embark on an electoral reform have stumbled on the vested interests of the various partners of the consociational grand accord, who are unwilling to let go of their consociational safe nets⁵⁰. For the first time in January 2016, an inter-ministerial committee was set up to work the issue through. The president of the inter-ministerial committee acknowledged the fact that vested interests seriously hindered the electoral reform.

Our recommendation in this respect is that the inter-ministerial committee working on the electoral reform should be extended to include members of the civil society as well as researchers in political science and constitutional law. This would prevent the political elite from confiscating the electoral reform at their benefit and make only proposals which will favour the preservation of political status quo. Electoral reform should take into account the conditions prevailing in the society especially the shift away from a plural society in modern Mauritius.

- **Introduce legislation for transparent funding and accountability of political parties**

Vote buying is supported by the absence of legislation on the funding of political parties. As noticed by EISA Pre-Election Assessment Mission Report of November 2014, "Finance of political parties and political party alliances is outside the confines of the legal and regulatory framework"⁵¹. As a consequence, "opacity in regard to access to funds and sources of funding for election campaigns increases perceptions of political corruption"⁵². Concerns have also been voiced out regarding the use of money and other favours in politics.

A petition circulated in 2015 by civil society organisations claimed for "clean and fair elections" and requested the official registration of political parties on a permanent basis⁵³. It advocated for the declaration of expenditures of all political parties on an annual basis, including "all donations, funding and expenses" and requested that "the amounts donated and the identity of contributors shall be made public"⁵⁴. The proposals made by the citizens in the petition were retained by the inter-ministerial committee on the electoral reform and approved by the Cabinet in April 2016.

The political parties should also be registered as such in order to have a legal existence. Under the existing legal framework, their registration is compulsory only for the electoral campaign. The legal existence of political parties is a must in order to ensure transparency of fundings and accountability.

Increase civil society capacity building and enhance civil society capacity to observe the electoral process Recommendations in terms of legislations will have no weight if the issue of the weakness of the civil society is not addressed. Consociation maintains the population into acquiescence and tends to weaken the civil society. The Mauritian civil society underperforms in making her voice heard by the government and in engaging government on issues which resonate with the interests

50 Following the Sachs report on the electoral commission, a number of other reform projects were also proposed: the Collendavelloo committee in 2003, the Sithanen report and the Carcassonne report in 2011 and the Labour Party-MMM White Paper in 2014.

51 EISA Pre-Election Assessment Mission Report Mauritius, November 2014, *op. cit.*, p. 7.

52 African Peer Mechanism Review, *op. cit.*, p. 48.

53 The "Clean and Fair Elections Petition" on the website of *Le Parlement Populaire* <https://parlementpopulaireblog.files.wordpress.com/2016/02/for-clean-and-fair-elections-petition.pdf>

54 Jean-Max Baya, "Une commission indépendante pour se pencher sur le financement des partis politiques », *Le Défi Quotidien*, 1st October 2015.

of citizens⁵⁵. “Civil society as we know it does not exist in Mauritius. (...) We have to change our attitude and more and more people should come forward and stand together to prevent this country from going to the dogs and prevent democracy from going towards this dangerous path which is dictatorship”, advocates former President of the Republic Cassam Uteem⁵⁶.

EISA also noticed that “Mauritius [i]s anomalous in its views on the state of government oversight of the CSO sector”⁵⁷. A reinforcement of civil society capacity-building should include policy dialogue and advocacy techniques allowing NGOs and platforms to play a stronger role in ensuring national and local government accountability. In particular, setting up an independent common front of CSOs would play a decisive role in the capacity-building process, fostering cooperation in a segmented society and palliating the segmental effects of consociation.

We are insisting on the necessity for the common front of CSOs to be independent and free from political intrusion. The existing Mauritius Council of Social Service (MACOSS) which seeks to operate as an umbrella organization for the non-governmental organisation sector and civil society was incorporated under an Act of Parliament and as such, is not free from political interference. We advocate for an independent deliberative platform for the NGO sector and civil society.

As observed by the ECES *Needs Assessment Report on Mauritius* 2013, even though the legislation was amended in 2005 to allow international observers in Mauritius, Mauritian law does not make room for national observation⁵⁸. The EISA mission report of 2014 also noted that the Mauritian legal and regulatory framework does not grant the right to civil society organisations to formally participate in the electoral process, despite past recommendations made by international election observer groups⁵⁹.

Yet, the inclusion of various quarters of the civil society, namely the NGOs and CBOs, trade unions and other types of social actors would be greatly beneficial not only to maintaining transparency in the electoral process but also to the building of participatory approach and deliberative democracy.

- **Public consultation as early warning mechanisms to prevent or anticipate conflict and violence**

Mechanisms to encourage the consultation of citizens are needed to foster public participation and conflict prevention at early stages. As advocated by various international observers, such as the World Bank, “improved civil society participation and citizen engagement would further raise the agenda for accountability and service delivery”⁶⁰. We advocate for the Mauritian citizens and authorities to adopt a process of public consultation on projects of national interest to provide an early warning system of crises and conflicts occurring at various levels of the society and identify their roots and solutions in a consultative way.

- A prototype of such consultative mechanism was set up on an experimental basis with the creation of the *Parlement Populaire* (People’s Parliament) in 2015. The *Parlement Populaire* provided a

55 EISA APRM, Country Research mission to Mauritius, April 2014.

56 Cassam Uteem: “There are four political leaders but no leadership”, interview in *Weekly* 25 March 2016.

57 EISA APRM, *Country Research mission to Mauritius*, 27-29 April 2014.

58 E. Palmans and J. Ramasy, *Needs Assessment Report on Mauritius*, p. 14.

59 EISA Pre-Election Assessment Mission Report Mauritius, November 2014, op. cit., p. 4.

60 World Bank Group, *Mauritius Systematic Country Diagnostic*, June 2015, p. 105.

platform of deliberative democracy to facilitate public participation in political decision-making⁶¹. The experiment now needs to be extended at a larger level. Parameters of consultation need to be refined and implemented the public's feedbacks on political decisions and issues as a way to ensure that their voices and concerns are heard and taken into account especially on hot issues that may foster conflict. **Set up an electoral court**

In order to settle electoral disputes and election-related complaints or allegations regarding issues such as vote-buying, misconduct or electoral expenses, we advocate for the setting up of an electoral court on the model of the South African Court. In South Africa, the Electoral Court is a specialist court bearing the highest authority on matters relating to elections. The Court makes rules, with regards to electoral disputes, complaints and breaches of the Electoral Code of Conduct. The Electoral Court can either hear disputes about the conduct of parties or candidates or makes rules defining how they can be heard by the ordinary courts. The Electoral Court can also answers questions of legal interpretation referred by the Electoral Commission relating to an electoral matter⁶².

The setting up of an Electoral Court could be highly beneficial for Mauritius for two main reasons. Firstly, it obeys to a logic of civil society capacity building and inclusion. The Electoral Court is comprised of five members appointed by the President on the recommendation of the Judicial Service Commission on the recommendation of the Judicial Service Commission: one chairperson, who is a Judge of the Supreme Court, two judges from the Surpreme Court and two other members who are South African citizens. Secondly, the Electoral Court provides fast-track resolution of election-related disputes or cases. This would allow not only to treat matters more expeditiously, giving more weight and visibility to the resolution of contentious issues which bear considerable potential for conflict. Additionnally, it could also allow to produce jurisprudence over cases which are currently not covered by the existing legal framework.

61 Created in March 2015, *Le Parlement Populaire* is a deliberative democracy platform. It provides a public space where Mauritian citizens can make proposals regarding matters of national interest in a deliberative fashion. As such, is open to all citizens without distinction. The proposals which result from the deliberations are transmitted to the Government and the Members of the National Assembly. Olivier Caslin, "Parlement populaire à Maurice : ici, on refait le monde", *Jeune Afrique* n°2856, 4-10 October 2015.

62 African Democracy Encyclopaedia Project, "South Africa : Electoral Court", <https://www.eisa.org.za/wep/souelectcourt.htm>

Mozambique

Author : Johanna Nilsson



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Introduction

In October 2014 Mozambique completed their fifth democratic general election. The elections were however shadowed by accusations of fraud and Mozambique has since been in a state of political instability and unrest. The 2014 general election has spiralled the country into one of its most dangerous crisis since the end of the civil war in 1992. Reports of violent clashes between government forces and RENAMO armed forces have been frequent in media and there has been an increase in threats of violence, indicating the imminence of war. The main opposition party, RENAMO (Resistência Nacional Moçambicana – Mozambican National Resistance), has been demanding control over six provinces in the centre and north to accept the results of the 2014 election which they claim that the government party, FRELIMO (Frente de Libertação de Moçambique – Mozambique Liberation Front), stole. Negotiations, threats, mobilization of troops and outright violent clashes have been the aftermath of the election, leading to a most insecure current political situation. A temporary truce was announced just before Christmas 2016 and president Nyusi and RENAMO's leader Dhlakama pledged in May 2017 that the truce is permanent.

Mozambique was ravaged by a 16-year long civil war between 1976 and 1992 between government forces, FRELIMO, which imposed a one-party Leninist-Marxist state system, and RENAMO, a rebel group and resistance movement originally founded by current Rhodesia to destabilise the Mozambique government. RENAMO did however have strong local support within Mozambique and grew into a local resistance movement with most its support in the more traditional rural countryside in the centre and northern parts of Mozambique. FRELIMO was founded during the liberation struggle against Portugal¹ meaning that both groups have a history as armed forces who was transformed into political parties, and neither party held democratic values until Mozambique changed its constitution to allow for a multi-party state system during the peacebuilding process in the beginning of the 1990s. Mozambique is therefore a new democracy, still in transition, and the process is far from complete. Mozambique has been given a score of 3.5, where 1 is worst and 7 is best, from Freedom House, indicating political and civil liberties, meaning that they are right in the middle, but in their statement, they clearly state that “Mozambique is not an electoral democracy” (Freedom House 2013).

Democracy in Mozambique is not an institution that has developed from within but it has been implemented through peacebuilding. Peacebuilding and democratization are two concepts that are used in symbiosis, both in academia and within policy (See e.g. Jarstad and Sisk 2008, Newman, Paris and Richmond 2009, Lyons 2004). Democratization is the main means to withhold peace. One of the instruments often used in democratization after war is to turn armed forces into political parties. This was the case in Mozambique where it was stated in the peace agreement that RENAMO should be aided in transforming into a political party and a fund of 10 million dollars was set up for this sole purpose. Rebel group to political party transformations are a mean to create legitimate arenas for content, and to provide the conflicting parties with a new form of power as to convince them to lay down arms (Manning 1998, Söderberg Kovacs 2008, Söderberg Kovacs 2007). It does however also generate a new political system built on the same structures as the conflict. The collective identities and a hostile culture of ‘us’ and ‘them’ is brought into the new political democratic arena. Mozambique is often referred to as a success case of peacebuilding since it has completed several democratic multi-party elections (Orre 2010, 2014, Moran and Pitcher 2004). Every election has however been ravaged by accusations of fraud, boycotts, violent clashes and demonstrations.

¹ Mozambique gained its independence on June 25, 1975.

Elections are vital moments in new democracies since it is the key moment to test the stability of the system. Elections, with the period before and after, is a vital period in establishing democratic standards. In post-conflict societies, this period is also a period with an increased risk of violence since it often brings forward the old conflict structures, and losing and winning become key elements. Electoral violence is a sub-category of political violence but it poses a special threat to stability in conflict-ridden societies due to the fragility of the political system which is most often created along the lines of the conflict parties (Höglund 2009). Elections become key arenas in expressing grievances and in creating dissent along party lines. Elections are the most important feature in a democratic system and elections should lead to a competitive situation between parties, otherwise it is not a functioning democratic system. Competition and opposition are key elements in a democratic system, but it is of utmost importance that the balance is right.

This chapter explores and discusses the use of electoral violence in Mozambique through engaging into the reasons behind the current political situation in Mozambique. Mozambique is now within a political crisis characterized by threats and violence due to disagreements over the result of the 2014 general election. The current situation is the edge of an historical process, a transition from being enemies in war into becoming political opponents in peace, a transition from being armed forces into becoming political parties. This is a transition of institutions and structures but also a transition of norms, culture and identity. This chapter will therefore also discuss the historical relationship between the parties and previous use of electoral violence. The focus in this report is an attempt to understand how acts of violence in relation to elections is justified, to understand how these forms of actions could be avoided in the future and solved in the present.

This chapter is structured as follows. Five separate analytical section focusing on; social context and drivers that facilitates political conflict, the use of electoral violence to express dissent, the political system and electoral institutions as controlling or enhancing electoral violence, the key factors to consider in limiting the use of violence and conclusions and recommendations for how to deal with electoral violence in Mozambique.

Section I - Context and Drivers of Electoral Violence in Mozambique

Electoral violence is an act that lies within the larger understanding of political violence, but due to its specific nature of achieving the political goal of governing, and its relation to appear near an election it should be treated as a specific form of violence (Höglund 2009). Elections is the most vital aspect of a democratic system and the role of elections becomes even more important in a transitional democracy. Electoral violence can occur in all forms of democratic systems, but they pose an extra risk in countries with a recent history of conflict. Conflict ridden countries often still maintain structures, such as access to mobilization and guns, and norms that justifies violence which increases the risk of violence in relation to elections in post conflict countries. It is also often the case that at least one of the political parties is a former armed force since transformation of armed forces to political parties is a common used strategy in peacebuilding (Ibid).

The situation described above is prevalent in Mozambique, they have however been at peace for more than 20 years, but the political system is still dominated by the same two actors that fought against each other during the 16-year long war. Electoral violence is a concept that encompasses many different acts. Electoral violence can be acts of intimidation prior to an election to hinder people from freely expressing a vote and it can be destruction of opposition mobilization close to elections to create unrest. It can

also be violent acts during elections, in relation to the actual polling stations, or it might be the use of violence after elections to contest the results. Violence is then in its most extreme form used to oust the winning party, or threats and violence is used to create awareness of your believed unfairness. In Mozambique, there has been instances of violence prior to elections and during elections but the main aspect here is the use of violence, or primarily the threats of violence, after elections. RENAMO, the main opposition, has claimed every election stolen by the government party FRELIMO and have threatened to recourse to violence if their demands to accept the electoral results are not met. Electoral violence is used as a mean for negotiations and as means to enhance their political voice.

Höglund (2009) points out three main areas that can enable the use of electoral violence. The first is the nature of politics meaning the political and social context that shapes the political system and the political interplay between the parties. The second is the nature of elections, meaning how the electoral system is built and what checks and balances are in place to ensure fair elections, and the norms of elections. The third area is the electoral institutions, how the actual institutions are constructed to control possible fraud and how to handle discontent

The Political Arena in Mozambique – an Uneven Playing Field

Mozambique is in 2015 celebrating 40 years as an independent country. They gained their independence on June 25th, 1975. Mozambique has since then been ruled by the same party, FRELIMO. Multi-party democracy was enforced with the 1992 peace agreement (The Rome Accord) and the first democratic elections were held in 1994. Five executive democratic general elections have since then been completed, but the same party has always remained in control of the state. According to classic definitions of democracy as defined by Schumpeter Mozambique is to be considered a democratic country due to the prevalence of free and fair elections. Free and fair is however under discussion but every election has been ruled free and fair by observation teams. Huntington (1991) specifically discusses transition countries and claim that a full transition to democracy cannot be viewed complete until there has been a peaceful shift in power, and it should be two times, he calls it 'the two-turnover test'. Considering this definition Mozambique cannot be viewed as a consolidated democracy. Other scholars post more inclusive definitions involving norms and structures (Diamond 1999), or a set of features needing to present to be viewed as a democracy, such as functioning opposition, rule of law and free press (Dahl 1971).

These different approaches show that the concept of democracy is contested, hard to define and not always applicable to all contexts, especially when we are discussing countries in transition. Dahl's definition of democracy² is what lies behind the scales often used by think-tanks and organisations in ranking of democracy in the worlds countries. The Economist Intelligence Unit presents a democracy ranking based on several different aspects of democracy, including both political freedoms and the functioning of government and political institutions. The scale goes from 1 to 10, with 10 being a full democracy. Mozambique scores 4.66, slightly over the average score for Africa at 4.34. This score positions Mozambique within the category of hybrid regimes (EIU report 2014), meaning that the country is in a state between authoritarian and democratic rule. Mozambique is an official democracy but they have low scores in the international rankings indicating that the system is not fully working. It is also troubling that Mozambique's democracy score has decreased every year since 2008 when the score

2 Dahl presents eight freedoms and institutional requirements that needs to coexist within a system of contestation and participation; freedom to form and join organisations, freedom of expression, right to vote, eligibility for public office, right of political leaders to compete for support and votes, alternative sources of information, free and fair elections, and institutions for making government policies depend on votes and other expressions of preference (Dahl 1971:3)

was as high as 5.49. This indicates a development in the wrong direction.

This scale of democracy indicates that transition to democracy is not a straight forward undertaking, and that many countries, including Mozambique, seem to be stuck in-between authoritarian and democratic rule. This has created a new research agenda on the phenomenon of 'hybrid regimes' (See e.g. Diamond 2002, Bogaards 2002, Levitsky and Way 2002). Levitsky and Way (2002, 2010) discuss hybrid regimes and specifically what they refer to as having an 'uneven playing field'. This means that a country has a formal democratic system with democratic institutions and no (massive) outright election fraud, but the system is created to benefit the party holding the regime, meaning they will win every election due to the 'uneven playing field'. Within this concept lies a few other ideas, previously well discussed in relation to African politics, such as neo-patrimonialism, clientelism and 'Big Man politics' (Bratton and van de Walle 2002, Weghorst and Lindberg 2011, Utas 2012), as well as oppression of media and freedom of speech, and uneven access to funds.

The state, the regime and the governing party

FRELIMO has ruled Mozambique since 1975, the first 19 years a one-party state and after 1994 as democratic state holding elections. RENAMO is the main opposition party, and former rebel movement, and since 2009 a new opposition is present in parliament, MDM, who broke out from RENAMO in 2008. Mozambique's political system is an official democratic system with opposition present in parliament but much points to a skewed political arena, or an 'uneven playing field'. The political system is created so that there is almost no separation between the government and the state, or the ruling party and the state, and much points to Mozambique's political system becoming more and more a centralised system (Igreja 2013, Manning 2010). This is due to malfunctioning democratic institutions, informal power structures and formal institutions.

One of the formal systems that hinders the allocation of power is an incomplete decentralisation. Decentralisation has never been fully implemented in Mozambique meaning that most power lies in the hands of the regime. Urban decentralisation was implemented in 1997 meaning that certain urban centres were given status of municipality and local elections are held for local governance in these municipalities. The countryside is however left under full control of the government, and the province governor is always appointed by the president. The main opposition, RENAMO, has on several occasions boycotted the local elections due to the weakness of the local electoral law, meaning that decentralisation has had very small scale effects on the political domination. I will further discuss these aspects implication for elections later.

Freedom of speech and access to free media is one of the main pillars of a functioning democratic political system. Mozambique has this aspect implemented in law since 1991. However, much indicates that the reality is not completely the same. Mozambique has for instance substantially decreased on the world ranking of press freedom since 2011/2012, from a 66th place out of 178 to 79th place in 2014, presented by Reporters without Borders. This indicates a downward trend in the ability to express dissent in Mozambique, despite the countries democratic system and laws. The government has official control of some media such as news-channels and newspapers but free media is also accepted. The government own media is however still the largest players and they tend to report stories in a benefitting way of FRELIMO. During the election campaigns, it was evident that FRELIMO gained much more access to media, than RENAMO and other opposition parties according to the official reports by the EU observation missions (EU report 2014, EU report 2009, EU report 2004). It is also evident in one of the largest journals, and a pro-government journal, that RENAMO is never referred to as an opposition party but always as a formal rebel movement. This frames RENAMO as enemies of the country, as violent

and as a non-political movement, bringing down their legitimacy. It is a small act but it has strong implications. There have also been a few very alarming situations in the last year. In March 2015 professor Gilles Cistac was murdered, shot down on an open street in central Maputo, very shortly after he spoke out in favour of RENAMO's claim to create self-governing provinces. It is not resolved who committed that murder but the two main opposition parties officially blamed the government.

The state and the regime in Mozambique are closely connected due to its history as a one-party state and through norms of conduct. The regime, FRELIMO, has been in control of the state for 40 years and their leverage of state functions is therefore high. The idea of the state and the regime being the same thing is not just experienced by political parties, 63 percent of the population has answered that the ruling party and the state is the same thing, in the 2012 Afrobarometer. It is often mentioned that FRELIMO use their status as regime and therefore major employer in the country to control the political arena. If it becomes evident that you do not follow the party line you risk losing your job, or for minor offences being left out of discussions for promotion. Two RENAMO politicians who before joining RENAMO had worked at the University as professors and held honorary positions mentioned that they were both demoted from their positions when it became known that they had joined the opposition.

The government is also of course in charge of police and armed forces. This is an important branch of government that needs to be free from party politics, it should always only function in the interest of the citizens. This is however an aspect of government that is often said to be in control of the government party. Throughout the civil war the government forces were under direct control of FRELIMO. Military power sharing was one of the requisites in the peace agreement but statements from several sources indicate that this was never fully implemented meaning that today the military (FADM) is still viewed to be in control of the governments interests. Also, the police force, and especially its wing known as the special forces are seen to perform tasks in the interest of the government, or FRELIMO. It is often repeated in discussions with RENAMO politicians that RENAMO need their own soldiers since FRELIMO has the police. It is also evident that there have been instances where the actions of the military and police forces can be questioned. Prior to last year's election there were instances of police attacking RENAMO and MDM headquarters, destroying material, stealing money, and arresting politicians without any real accusations. Police have also been known to vacate and shut down political rallies held by RENAMO even when permissions have been granted. It is interesting in relation to this that 28 percent of the population believes that opposition parties and their supporters are silenced by the government (Afrobarometer 2012). It is also questionable who besides the army had the capacity to launch a grenade against RENAMO headquarters in the Gorongosa forest which led up to the start of the 'pequena guerra' that took place between October 2013 and August 2014. In September 2015, there were two armed attacks on the opposition leaders convoy and on the 9th of October 2015 the police conducted an unlawful raid on the opposition leaders private home. RENAMO and FRELIMO have long been accusing each other in matters such as this but also MDM has experienced this to be true, as this quote by Mr Lutero Simango, head of MDM parliamentary bench, implies:

"The state must be separated from the political party. Unfortunately, this is not happening and FRELIMO gets to manipulate all the bodies inside the state such as the police and the army" (Mr Lutero Simango, MDM MP, Head of parliamentary bench)

The political arena in Mozambique is shaped by the structures that the strong regime party holds in place. This political arena creates a context of both formal institutions and informal structures, relationships and norms that enables, or justifies, the use of violence to get your opinion heard. Both the formal and the informal need to be carefully looked at to understand electoral violence in Mozambique and how to prevent it in the future.

The Current Political Crisis in Mozambique

Mozambique is in a state of political crisis, with instances of violence, since the elections in October 2014. The relationship between the government, FRELIMO, and opposition party RENAMO is very tense since RENAMO refuses to accept the results of the last election. This tense relationship is however not something new. Another aspect that shapes the political arena, and has led to the current crisis is the hostile relationship between the parties and the structures that create. FRELIMO and RENAMO were enemies in war and today they should be opponents in politics, but there is still a legacy of the war left within their relationship. It is also evident that RENAMO and FRELIMO have very different views of reality; they live and act in different truths. Most clearly is that they have completely different conceptions on the outcomes of the elections. RENAMO are convinced that FRELIMO has never won an election, but that they steal it from them every time. RENAMO act from and live in the truth that FRELIMO has stolen every election from them; if election tampering had not been prevalent, RENAMO would have won and would have governed the country. This is repeated by RENAMO politicians and it repeated by RENAMO leader Dhlakama in the press. This is the truth from where RENAMO justify all their actions. For FRELIMO, this is of course viewed as a complete lie from an opposition that cannot handle to lose. Their acts may be rational to them in the truth they hold themselves to but irrational to their counterpart who lives in another truth. It is evident that there is not just one truth to judge by.

This distance between them and the fact that they act from different sets of believes creates and shapes the current crisis. RENAMO claims that FRELIMO stole the 2014 general elections through tampering with the electoral process, and that this has happened several times, meaning that they must act outside of the political system, since the system is failing them. The EU observation mission has reported of instances of fraud within the last election. In some districts, there were more voters than inhabitants that voted for FRELIMO, election material was destroyed in acts of protests in Zambezia, Nampula, Sofala and Tete, and the report specifically argues for serious flaws during the tabulation process, mainly in the central and northern provinces, putting these results in question (EU report 2014). RENAMO does therefore have some leverage in their claims, but the result of the election was deemed correct by the constitutional council, and in the end by all observation missions (EU report 2014, AUEOM 1015, EISA 2014). The accusation by RENAMO is that the constitutional council in Mozambique announced the results without having all the papers in order from the district level, and there are still today not any actual reports presented with election results from some of the districts in the country. This situation has created a much unstable situation in the country, leading to several clashes between police or armed forces and the armed force of RENAMO. The political arena in Mozambique is therefore currently characterised by violence due to the elections. A truce has been agreed upon since May 2017, but it is still unclear under what premises.

There is evidence and reports of violent clashes on many position in the country. Most clashes are in the northern and central parts of the country and mostly in rural or semi-rural settings, mostly in Manica, Sofala and Tete. It is difficult to find any real data on casualties but in relation to what is written in news journals an estimate of deaths should be around 25-70 people in the year 2015 (Crisis Group, Mozambique). To indicate the difficulty of finding a correct answer is that RENAMO in one instance claimed to have killed 45 soldiers from the national army and the government reported that one person had died. Reports from the Human Rights League in Mozambique also indicate that bodies get buried without registration (Interview Human Rights League). Malawi has reported that over 600 people have fled over the border from the northern province of Tete, indicating that clashes have appeared and led to civilians feeling unsafe (Crisis Group, Mozambique). It is not always clear who holds the main responsibility for these violent outbursts but indication suggests that both sides are active. According to the Human Rights League Mozambique evidence suggests that some atrocities are due to the actions

of the government forces.

"In Gorongosa we witnessed some common graves of buried dead bodies. But we could not identify the slaughtered people, because there were so many people and we did not know what was the reason of that slaughter of these innocent people, if they were slaughtered by the troops from the government army or from the opposite party. [...] We have heard that these crimes are mostly committed by the part of government army." (Mr Penga Penga, Human Rights League Mozambique)

There are violent acts and clashes between government forces and RENAMO armed forces, but there have also been instances of violence directly addressed at the opposition leader Dhlakama. During September 2015, there were also two incidences of armed attacks against the convoy of the oppositional leader, Dhlakama, and on the 9th of October, Dhlakama's private home was raided by the special police force, with the use of heavy arms. The police were later confronted with the accusations and committed to have performed an unlawful raid of the house of Dhlakama, which they committed to have done, but claimed it necessary to collect unauthorised guns. These instances show a major increase in the political crisis in Mozambique and it indicates that the government is involved. RENAMO is an opposition that still also functions as an armed force, but in relation to the latest events in the country evidence also suggests that the government is involved in unlawful use of violence. A government has the legal right to use violence but not against its own citizens in an unlawful way. The situation now indicates that both parties involved in the political crisis has turned to violent means.

An Opposition Party on the Thin Line Between Opposition and Rebellion

RENAMO has been an opposition party for over 20 years, they are the second biggest party in Mozambique and they have had a stable large presence in parliament. RENAMO were transformed from a rebel movement into a political party during the peace process in 1992. They have however kept a small armed force intact throughout these years, officially functioning as a personal security force for the party leader, Dhlakama. RENAMO's right to keep a small personal security force for its leaders was written into the peace agreement, but it is contested for how long this right would last. There are also indications that large numbers of RENAMO soldiers never went through the DDR (Disarmament, Demobilisation and Reintegration) process, meaning that there is substantial amount of people ready for mobilisation, with access to guns. The peace agreement (The Rome Accord) stated that military power sharing should be implemented. This is however a point seen to have failed and this is one of the main points that is still being argued in Mozambique.

RENAMO's path back to arms

During the last couple of years there has been a new surge of fighting between government forces and RENAMO. In October 2013 RENAMO officially broke the 1992 peace agreement after several attacks on RENAMO headquarters and bases, claimed to have been performed by the government. A new peace agreement was signed in august 2014 to establish peace for the upcoming election, in October 2014. The result of the election was however contested by RENAMO and the situation is today still unstable. The last years has seen an increase in the armed section of RENAMO and an increase in threats of violence in the rhetoric of RENAMO. RENAMO is now balancing on a thin line between opposition and rebellion. The discontent goes back many years and has its main growth in the elections. RENAMO claims that FRELIMO has stolen every election since the first one was held in 1994, leading to several instances of violence, unrest, boycotts and threats in relation to the elections. Informal negotiations or dialogue on elite level have been used as a solution to regain control and stability. This is of benefit to both the regime and the leading elites of RENAMO who gain access to power and win certain political goals,

even if not within the political system. These wins are however seldom felt by the population who voted for the opposition, and they constantly feel let down by the system. Mozambique is separated into ten provinces³ with strong regional differences in allegiances. RENAMO has since the first election won most votes in the central and northern provinces, and often with a large majority, such as in Sofala, Manica and Nampula. These provinces are however ruled by the party and president who wins most all votes, in this case FRELIMO. This creates tension when RENAMO accuses FRELIMO of steeling the elections and they are vividly telling this to their constituents, meaning that people and politicians in these provinces live in a reality they view as extremely unfair.

The present situation has evolved since the election in October 2014 and is still in the making with an uncertain outcome, but the grievances has its history in all previous elections and in FRELIMO's strong control of the state. RENAMO experience that FRELIMO is not playing a fair game within the political system; they are controlling the system, obstructing oppositional activities through use of police force; they are threatening or controlling people by extensive use of patronage politics; and they are rigging the elections. The accusations after the elections in 2014 is no different than after previous elections, but this election also comes as a response to the negotiations of the 'pequena guerra' meaning that the situation was already very instable. RENAMO leader Dhlakama has promised his people to stand up against the oppression of the state, he has promised them that change is coming. It is very interesting that RENAMO increases their share of votes from 18 percent in 2009 to 36 percent in 2014 while the rhetoric of violence increases and while RENAMO officially brakes the peace agreement from 1992. This indicates that there is discontent with the existing government, and people are starting to see that normal political activates cannot change it. RENAMO experiences that yet another election has been stolen and violence is then the only way to achieve political goals.

"If the police and the armed forces, which should be serving everybody, are still only serving the ruling party and its members, we also need to protect ourselves as well as our members. This is why we have not yet converted from a military organisation into a fully political party. We are a political party but we still maintain our military forces." (Mr Namburete, RENAMO, MP and Head of external affairs)

"When the government forces attacked one of our party headquarters in Sofala in 2013, he (Dhlakama) ordered his military to respond, opening the second conflict." (Mr Namburete, RENAMO, MP and Head of external affairs)

RENAMO is today functioning both within the political arena and as an armed force, with Dhlakama as the leader of both wings. This form dual role is from a democratic view not acceptable since political parties should not hold arms and use threats. In RENAMO it is however clear that this dual identity is accepted by its politicians. It is repeatedly mentioned that RENAMO need to have their soldiers, they need the armed wing of the party, to be able to protect themselves. RENAMO is acting within the political system but with a constant threat of using force if the political institutions do not work for them as wished.

Section II - Violence and Threats as Means to Contest Elections

Mozambique has been a multi-party state since the end of the civil war in 1992. A new constitution was written shortly before that as a step in the peace process, which installed a democratic political system. The peace agreement included the transition of rebel movement RENAMO into a political party.

³ It is officially said as 10+1 provinces, since Maputo City has gained legal status as a province, but it is not a traditional province. The provinces are Maputo (and Maputo City), Gaza, Inhambane, Manica, Sofala, Zambezia, Nampula, Niassa, Tete and Cabo Delgado.

It did however say that RENAMO, and RENAMO leader Dhlakama, was entitled to have a private security force as personal protection. This meant in practice that RENAMO never disarmed parts of their forces. RENAMO has been a political party with the means of guns for more than 20 years.

There have been five consecutive general elections in Mozambique. The first one in 1994, then every fifth year up until the last was completed in 2014. From 1998, there has also been local elections for the governing of municipalities. From the beginning it included 23 municipalities, today that number is 53 municipalities that have the right to elect and govern themselves. These municipalities are chosen based on their size and ability to have a self-sufficient economic system. It is a form of urban decentralisation.

The first election in 1994 was monitored by the UN as it was the final step of the peace process. It was considered a calm and fair election, FRELIMO presidential candidate won with 56 percent, against RENAMO's 44 percent. RENAMO proved with this election that they were a legitimate force with popular support, and that their transition to political party was complete. They received seats in parliament and showed that they could and would function as an opposition. Every election after that has however unfortunately seen massive instances of electoral contempt and electoral violence. Electoral violence in Mozambique has mainly been about the use of violence and threats of violence to contest the results of the election. Violence in relation to the elections has become a common thing for the population to experience, 44 percent of the population believes that competition between parties, often or always, leads to violent conflict (Afrobarometer 2012).

One of the most disastrous events took place after the 1999 election, when RENAMO rejected the results and called for a demonstration in Montepuez in Cabo Delgado that led to the deaths of around 40 people. The election in 2004 also had incidences but not as devastating as in 1999, around 10 people were reported to have died in clashes prior to the election, and around 10 people died in an incident a few months after the election, again in Cabo Delgado. The election in 2009 showed the worst results ever for RENAMO, who gained only 18 percent of the votes. RENAMO contested the results but due to their very low number they had little leverage to create any real agenda. In 2013, with the beginning of the 'pequena guerra' there was a massive increase in violence, resulting in several deaths, estimated around 25-90 civilian deaths (UCDP 2015). There are several reports in media of clashes and riots during 2013 (CrisisWatch database). These clashes were not in connection to an election but much revolved around RENAMO's expressions of an unjust political system, where FRELIMO have stolen elections through a faulty electoral law, and their demands to alter this for the 2014 election. This unstable situation characterised the situation up until the signing of the new peace agreement on September 5th, 2014, to establish a peaceful scene for the upcoming election. The 2014 elections led to the death of one person in relation to the actual election, in a riot at a polling station, but the main issues have happened after that. RENAMO rejected the results, demanded to govern six provinces and an unstable situation has existed since then. A truce between the parties have been reached in May 2017 but it is still unclear on what premises. It is hard to estimate how many people have been killed in the clashes since the 2014 election, but around 25-50 should be a fair estimation. Political life has resumed since all parties are present and active in parliament, but RENAMO is also increasing their war acts and rhetoric, and the government have been accused of several violent attacks on the opposition. The situation is not yet completely solved.

There have also been four local elections for municipalities. These have been calmer than the general elections, but that is mainly since the main opposition party, RENAMO, has boycotted two of these elections. Boycotts have here been their way of expressing contempt with the electoral process.

The events after the last election in October 2014 show indication of becoming the worst crisis so far.

RENAMO is objecting the results and violent clashes has become common news in Mozambique. In relation to both evidence of election tampering and fraud, and the use of violence is that it is mainly located in the central and northern provinces. Most of the recent attacks and clashes have been within the provinces of Sofala, Manica and Tete, and after the election in 1999 and 2004 it was mainly in Cabo Delgado. The scale of violence is fortunately still rather low, incorporating mainly the armed forces of RENAMO and government police or military, but civilian casualties are present, and over 600 civilians have reportedly fled to Malawi since the beginning of 2015 from the province of Tete (CrisisWatch Database).

The opposition party, RENAMO, believes that every election has been stolen from them by the government party FRELIMO. The elections have been ruled to have instances of fraud but not enough to affect results, by independent observers (EU reports 2004, 2009, and 2015). To understand the use of violence and the threats of violence by the opposition party it is however important to understand the truth that they justify their acts against. It is also worth to note that RENAMO uses a rhetoric of threats of violence, threats to resume war, but many instances have also, in clashes and demonstrations, been due to acts of government forces.

Elections is an arena to uphold and guarantee democracy, but elections have for RENAMO become an arena where the ruling party strengthens their own power using fraud. The threats RENAMO pose needs to be seen and understood considering they believe that every election has been stolen. If you cannot trust on democracy to function then the move to violence is not far away, since you believe that it is your only means. All parties involved in an election process needs to feel certain that the process is there to protect the rights of all of them and not benefit any specific actor. All parties must after the election result is presented feel that they believe that what is presented is true. When the idea of what is true differs so extremely as it does in the case of Mozambique we must question the transparency of the process. The distrust and discrepancy in believe between the two parties creates a very tense situation, where both actors are involved and responsible.

Regional Claims and Local Governance as a Key Issue

After RENAMO's refusal to accept the results of the general elections in 2014, RENAMO leader, Dhlakama, announced that they may agree to the results if they are given the right to govern in the provinces where RENAMO received majority of the votes. It is a claim for territory through an act of local governance. This is argued, by RENAMO, as being the will of the people, the people should be governed by the party for which they voted. RENAMO claimed to have won the majority in six provinces, Manica, Sofala, Zambezia, Nampula, Tete and Niassa, which are then also the provinces they claim control over. These provinces are all located in the central and northern part of the country and would create a large joined area. Dhlakama has therefore been accused of trying to divide the country. The demand has had different names in the process but it was finally called provincial municipalities when the proposal was sent to parliament. This framing is a way to situate the idea within the constitution, which allows for local governance through municipalities. The proposal was however voted down in parliament, still with the argument that it would be a breach of the constitution and could therefore not be done. It is worth to note that law professor Gilles Cistac, a Franco-Mozambican constitutionalist, made a statement that RENAMO's proposal could be implemented within the boundaries of the constitution, and was shortly after that shot down on an open street in central Maputo.

The demand for control over this area is not a new demand by RENAMO. In the beginning of the peace negotiations before the 1992 peace agreement was the same demand put forward. RENAMO wanted

control of provinces in which they have their support. They wanted territorial power sharing. This was never implemented because it was an act that would separate the country, and unity and a sense of nationality was considered the way forward. This question has however remained important for RENAMO and it is also reflected in the votes by the people.

RENAMOs proposal for provincial municipalities

RENAMOs proposal for local governance in the form of provincial municipalities incorporates a form of decentralisation, moving aspects of power closer to the people so that there will be less discontent in relation to the elections, more people will feel that they are governed by the party for which they voted. Decentralisation would be a good measure for the political system in Mozambique, the problem is that this proposal is not a decentralisation law, if anything it is more in line with an act of power sharing. The four provinces that FRELIMO won is left out of the discussion completely. There will also be no local election for the provincial municipalities, the governing body is to be selected by the leader of the party that gained most votes in the general election in each province, leaving all power to RENAMO leader Dhlakama. This proposal by RENAMO has created controversy within the country, it is said to split the country up, but at the same time are many people positive to a form of decentralisation, even if they would not agree with the exact writings of the proposal. Decentralisation was not an aspect in the election campaign from RENAMO, meaning that this initiative is new and not grounded in election promises. However, a process that links to the history of RENAMO claims for decentralisation based on them having very strong support in these areas, and the areas they controlled during the civil war.

The discussions about the bill of provincial municipalities has been vibrant in the media from both sides and Dhlakama made it clear in an early stage that the proposal would be implemented no matter the outcome of the parliament vote, but that they would give FRELIMO a chance to do the right thing and avoid further violence. That has been a constant framing used by RENAMO; that they do not want war but FRELIMO leaves them no choice since FRELIMO is not following the will of the people. Dhlakama made it clear that the autonomous provinces will be implemented, with or without the approval of parliament

"If FRELIMO plays about and rejects the bill on autonomous regions, the government will immediately fall" (AIM – club of Mozambique - 17th of February 2015)

"If FRELIMO does not approve the project, it will even be good, because we shall remove them from power by force. They will lose everything, and we are able to do that" (Joseph Hanlon report – club of Mozambique- 4th of March 2015)

These are clear threats of war expressed by RENAMOs leader, Dhlakama, if the political system does not function and rule in his favour. The proposal was discussed in parliament on the 30th of April 2015, and it was voted down. On May 2nd 2015, Dhlakama responded in a speech that he would grant FRELIMO two month to reconsider, but after that RENAMO would, by force, implement the provincial municipalities.

"We are not afraid to use the war to 'spin' the governors and form our government, but we do not want to get to that level," Dhlakama said, noting further that "if within two months FRELIMO does not go back in its decision, we do not know what will happen and we are not responsible for the consequences." (O Pais – club of Mozambique – 4th of May 2015)

On the 10th of June, during the RENAMO national congress, Dhlakama again emphasised that they will make it happen, it is the most important step for RENAMO now to complete, because it is the will of the people.

"The bill on provincial municipalities must be implemented. It must take effect because it is the

way to satisfy the will of our people. It is a correct and intelligent way of sharing power without compromising national cohesion" (AIM – club of Mozambique – 10th of June 2015)

"Can we continue to persuade the people to hold back and wait patiently for solutions? Or should we accompany the sovereign people in the actions they want to undertake?" (AIM – club of Mozambique – 10th of June 2015)

The proposal for provincial municipalities and the discussions around serves as a very good example on the rhetoric and actions of RENAMO both as a political opposition party and as an armed force threatening with rebellion. The proposal is, in the first place, the result of informal negotiations due to RENAMO not accepting the results of the 2014 general election. The proposal is however still conducted in the way of an opposition, it is a well-drafted bill that goes through the parliamentary institutions, is openly discussed in parliament and votes are cast. However, with the background that if it is voted down RENAMO will implement it anyway, by force. The issue of local governance seems to be a most important issue to deal with in the creation of a long term stable and peaceful political system in Mozambique

The Legacy of Violence Between the Main Parties

Violence is present in the history of Mozambique and it has historically been used to express dissent and contempt. Mozambique was a Portuguese colony and they fought a ten-year long struggle to gain independence, which they received in 1975. War and violence was the means to achieve independence. FRELIMO, the freedom movement, after that established a Marxist-Leninist one-party state system and soon dissent against this system aroused and again it was fought with violence. A 16-year long civil war followed between government forces FRELIMO and rebel movement RENAMO. This is where the relationship between the two parties began and was established, as opponents in war. It is often repeated that the high levels of distrust between the parties today is due to the legacy of violence, which hinders them from seeing the other as a legitimate opponent.

"Parties which have military history are somehow overwhelmed by a dosage of distrust or misgivings towards the other, the rule seems to be that you either stand by me or you are against me." (Sheik Saide Habib, Mediator since 2012 in the dialogue between FRELIMO and RENAMO)

The historical legacy of violence and the legacy of the civil war is still present within the political system today. Both parties were constructed as armed forces from their start, and both parties maintain the same leaders as during the conflict and many of the active politicians in both parties were active during the war. The main actors in FRELIMO are from the freedom movement and Dhlakama, leader of RENAMO, has been leader since 1979. This legacy within the parties and between the parties constructs a culture within the political system built on distrust. This affects the possibilities of maintaining peaceful dialogue and negotiations, instead of reverting to acts of violence.

The legacy of the war does however also have another aspect in the case of Mozambique. It is often pointed out during this chapter that there seems to have been an incomplete implementation of the peace agreement, signed in 1992. This is mentioned by the parties themselves and by neutral parts of society.

"I would highlight these elements, the distrust between the parties and the mal-implementation of the peace agreement, as the main reasons that led us to this situation." (Sheik Saide Habib, Mediator since 2012 in the dialogue between FRELIMO and RENAMO)

"This conflict comes up as result of bad fulfilling of the peace agreement of 1992 and about the disarmament of RENAMO" (Mr Penga Penga, Human Rights League Mozambique)

The peace agreement is and should have been the foundation of a new peaceful democratic political system. If it is by all parties viewed as incomplete, it does of course cause tension and mistrust between the involved. The major aspect that is not yet completed is the military power sharing agreement where the new military would consist of 50 percent FRELIMO and 50 percent RENAMO soldiers. This aspect was never fulfilled and RENAMO means that therefore they still must contain their own soldiers, since the national military (FADM) is still controlled by FRELIMO. FRELIMO poses that RENAMO never handed over their soldiers for disarmament, hence are they not part of the new army and this poses a threat since it means that RENAMO still holds their own soldiers, which is not legal for a political party. This situation indicates that demobilisation and disarmament was never fully completed during the peace process in 1992. There are also discussions about RENAMO leader Dhlakama's private security force which he was given the right to have.

This is a major aspect in why there is still today a hostile relationship between the two main parties. First, the fact that both parties view that the other hold an unjust access to armed forces means that the other will also feel the need to increase their force, it is a classic security dilemma. The second is that having this situation unsolved for more than 20 years has only increased the levels of mistrust instead of decreasing it which was the purpose of the peace process.

The legacy of violence between the parties needs to be addressed to establish trust. A political system is built on competition and opposition and some levels of hostility should exist, but it cannot constantly cross the line in going from arguing a political issue to using threats when you do not accept an outcome, such as an election result. The relationship between parties takes a long time to heal after a conflict, but it should however be able to be controlled in a political system that is fair and transparent. It is worth to mention that Mozambique is a new democracy. They are now experiencing the first generation of voters, of adults, who have never experienced war. This new generation should gain greater access to the political world, and to civil society, to influence the future of the country. Old legacies must not be kept if they are not beneficial for society.

Section III - The Political System and The Role of the Electoral Institutions

A well-functioning political system built on rule of law and with institutions that uphold that law is a key aspect in establishing trust and avoiding accusations of fraud, and in avoiding the use of violence to contest election results. Mozambique is a new democracy with institutions that may not yet be fully functioning, if not official than in practice. As already discussed, Mozambique has a system where the state and the ruling party is closely connected and that the ruling party has leverage and influence on systems that is there to maintain neutrality, including the electoral institutions. There are different aspects of the administrative political system that could enable a more stable political situation. The first is the actual shape of the political system in Mozambique, which by many stakeholders is perceived as a "winner take all" system, and the second aspect is the actual legal framework and institutions that facilitates the electoral system.

A Strong Presidential System with a Weak Decentralisation

Mozambique has since the end of the civil war and with the creation of a multi-party democratic system had a presidential system. A presidential system means that the president has the highest power, the president is head of state and head of government. The elections for president is conducted through a majority vote with a two-round voting system. There is a parliament in place but the party that wins the presidency holds the highest levels of power. The president cannot be removed by parliament and is not

selected by parliament. A parliamentary system is the opposite; the parliament holds the highest levels of power. These are the two most common democratic systems. There are varieties of these systems in how they function on a smaller scale and in how representatives are elected, and Mozambique employs the Proportional Representation (PR) system for parliamentary elections and provincial assemblies and a two-round majority for presidential and mayoral elections, (requiring a 50 + 1 majority vote to be elected). Proportional representation for parliament is a very useful system to enable opposition a role in governance. Seats in parliament is separated based on the voting constituency, in relation to the voting population in each province, and two seats for the diaspora. Mozambique uses a five percent limit of votes to gain access to parliament. The vote for president is a majority vote, a single candidate must have more than 50 percent of the votes.

There are flaws with both presidential and parliamentary systems, but the general view in Mozambique is that their presidential system has created a “winner take all” system. This is a term used often in discussions with organisations, political counsellors and academics, and of course with the opposition parties themselves. The power of the president is very strong in a presidential system, and this combined with a system that is known to informally be controlled by the regime increases the idea that the governing party holds all control. Some research also suggests that presidential systems are more prone to acting as an authoritarian rule (Linz 1990), meaning that the opposition is further limited. When the governing party, the presidential party, also holds control of the parliament the opposition becomes very limited. This creates a political situation where the opposition is often only active and heard during the election campaigns. The perception that Mozambique has a “winner take all” system may also spring from the current state of the decentralisation of the political system. Mozambique has a weak decentralisation system that has only granted governability to certain urban municipalities, while all rural areas are controlled by the state. Each province has a provincial assembly but all provincial governors are chosen by the president. This increases the idea of a “winner take all” system, meaning that the losing side feels that they have no representation and no access to pursue the political agenda of the party. Mozambique’s formal and informal political system, and especially together with a weak decentralisation law forms an institutional aspect that breeds contempt in Mozambique.

“We wanted a fully flesh decentralisation. But FRELIMO say they could only decentralize the cities. At that time, RENAMO’s support came mainly from rural areas, the urban areas were almost in 90 percent in support for FRELIMO. They decided not to extend the decentralisation process outside the capitals. [...] after the election of 1994, they realised that it was too risky, because the majority of the districts would be ruled by RENAMO.” (Mr Namburete, RENAMO MP and Head of external affairs)

This perception of how the political system functions also opens for higher levels of disagreement in relation to elections since it is seen to be extremely important to be the winning party. The presidential election in Mozambique has also been the one often creating controversy since the votes have been close around the 50 percent line, meaning that fraud could really have altered the outcome.

“In our political system, the winning side takes all, so there is no room for vindications on the part of RENAMO.” (Officer in the National Armed Forces (FADM))

Decentralization of the political system is one of the main issues that causes the political turbulence witnessed in Mozambique after the 2014 general election. RENAMO’s main claim after the election defeat in October 2014 is based on the accusation that FRELIMO stole the election, but they are also using a rhetoric that their voters should be governed by who they voted for. It is clear in Mozambique that RENAMO holds a very strong support in the central and northern provinces and especially among the rural population. These people have however never been granted anything for their votes due to a centralised political system. RENAMO thinks that a compromise should be that they will govern where

they won. In RENAMO they are suggesting moving to a form of power sharing system, perhaps interim until the next election, while the constitution is being appraised. The system that Mozambique has today creates high levels of dissent since the ruling party and the president holds power. A system that more clearly incorporates the opposition could limit these strong acts of contesting an election. In line with diverging power and bringing power closer to the actual voters could be to enforce a stronger and more sufficient decentralisation system in Mozambique.

Mozambique has a well-structured parliament to act as a leverage to the presidential system. It is a very active parliament in creating laws and debating political questions. This is both in formal plenary sessions and in working groups where all parliamentary parties are present. The parliament is gaining more and more leverage in Mozambique and it is today evident that all three present parties see it as an important arena. During the crisis after the 2014 elections it has been clear that both FRELIMO and RENAMO are dedicated to use parliament as it should. Secret negotiations have been held but all major decisions have been put through parliament. Mozambique could however consider if it is valid to have a representation in parliament based on voters per constituency, instead of population per constituency. RENAMO has been viewed as representing the rural poorer population, in general a population that is less likely to be registered as voters. This could create a default allocation in seats per constituency. Very populous provinces will have fewer seats since they have few registered voters. This is a system that has benefited FRELIMO. This is an institutional aspect but it is however also a matter of voter registration and electoral participation.

The Electoral law and the Role of the Electoral Institutions

The 2014 general election was the first real test for the new set of electoral laws which had been passed in 2013. The process to change the electoral framework started in 2010 after massive critique following the 2009 general election. The new set of electoral laws lies within the 2004 constitution and consists of law No 8/2013 controlling the election of the president and the Assembly of the republic, law No 4/2013 on the election of the provincial assemblies, law no 5/2013 concerning voter registration, and law no 6/2013, which governs the National Electoral Commission (CNE - Comissão Nacional de Eleições). The new set of electoral laws finally passed in April 2014. The last law governing the CNE was amended after the municipal elections of 2013 since it was still considered being too weak. The critique coming mainly from the opposition parties but also from independent observers (EISA 2014). RENAMO went as far as boycotting the municipal election of 2013 due to the flaws they saw in the electoral law.

The time for the general elections in 2014 was during a turbulent phase. RENAMO had resumed to military actions, however on a very low scale with few civilian casualties. RENAMO demanded further changes in the electoral law if they were to participate in the general election. Before the general elections in 2014 a lengthy process was undertaken to accommodate the demands of RENAMO in the rewriting of the electoral law so that they would feel inclined to participate and so that there would be no room after the elections to claim that the law was the reason for defeat. RENAMO was at last satisfied and a peace agreement was also signed in August 2014 just before the start of the campaign period.

The implementation of the law lies mainly in the hands of two adjoined institutions, the National Electoral Commission (CNE), and its technical arm, Technical Secretariat for Electoral Administration (STAE - Secretariado Técnico da Administração Eleitoral). The final decision of the elections also lies with the constitutional council, who are also in charge of ruling in case of dispute. The CNE is an organisation that is established under the constitution and should act as an impartial neutral body. Its members are however primarily elected by the political parties and representation is decided from in liaison

with parliamentary representation. There are however also a few seats allocated for civil society. The number of seats has varied between 13 and 19 seats. They have the main responsibility in overseeing and implementing the entire electoral process, and the role of STAE is to administer and implement the decisions of the CNE. The members of STAE are also elected to represent the political parties, but it also consists of a body of people that are hired for their technical and expertize knowledge. It has one political and one professional body.

Despite this process of creating an electoral law that all parties agreed on prior to the elections did the opposition claim electoral fraud in the aftermath of the election. When discussing this fact with RENAMO they do however claim that there was nothing wrong with the actual law, but it is the implementation of the law that was incomplete.

"[...]President Dhlakama was very happy with the revised law, if it was fully implement we would say the final results would be fair. [...]up to now we still do not have the final ballot sheets of these last elections. But the constitutional council have already validated the results" (Mr Namburete, RENAMO MP and Head of External Affairs)

The CNE and STAE are organisations that should act impartially, but they are at the same time consisting of political representatives, they are partisan organisations. Due to the nomination process which shadows the representation in parliament it is a fact that these bodies will be over-represented by the party in rule. It has from the beginning been requested by the opposition that these organisations should be based on political representation due to the lack of trust between the parties. RENAMO does not trust that a pure professional workforce can be installed but they believe that FRELIMO has too much leverage to influence and therefore they want it to be a body of political representation, meaning that they can guarantee at least some level of insight. It is however clear that when these organisations are accused of not implementing the law properly the accusations are based on their political composition, meaning that it becomes a political issue which leads to political instability. If these institutions only consisted of professional personnel, the accusations of misconduct would only reflect the institutions and not a political party. It is however clear that politics influences many spheres of society that it should not influence and it is therefore difficult to see how a fully neutral and professional organisation could be created.

This is however a most important issue to discuss in Mozambique since the reason for the claim of election fraud, and hence the reason for electoral violence, lies in the lack of trust in these institutions. The opposition party do not feel that they can rely on the conduct of the institutions. This is also not only true for RENAMO, but also the third largest opposition party MDM filed a complaint against the conduct of the CNE, but they used the legal avenues and complained to the constitutional council, who however discarded their accusations. Two opposition parties experience that the election process has not been fair and they both accuse the electoral institutions for an incomplete implementation. The electoral institutions in Mozambique are highly politicized which creates a foundation that enables distrust.

The constitutional council also seems to play a role that the opposition sees as responsible for the completion of the accused electoral fraud. They claim that the constitutional council ruled on the outcome of the election without having the full results. The constitutional council consists of a group of judges who according to their professional standard should maintain the law of the constitution. RENAMO does however feel that the constitutional council is not working in a neutral way.

"It (The constitutional council) is ruled by FRELIMO. The chief justice of the constitutional

council was until 3 years ago a member of parliament for FRELIMO. RENAMO has only one judge in the constitutional council, the rest of them are from FRELIMO, so it is easier for them to validate and move on." (Mr Namburete, RENAMO MP and Head of external affairs)

"The constitutional council approved the results, because the EU, Portugal and France had already congratulated the FRELIMO party and Nyusi as president, even before the statements of the constitutional council so then the constitutional council could not say anything else. It is a big problem when the interest of the big countries goes before the institutions of our country." (Mr Younusse, RENAMO MP and Vice President of Parliament)

This indicates that RENAMO feel that the constitutional council is not working in accordance with the law, but that they are influenced in their ruling both by national and international political interests. The constitutional council is the final instance that deals with claims of injustices during the election. The law states that each claim must be made at the sight of each allegation of fraud. Due to this, many allegations were dismissed by the constitutional council directly. The second largest opposition party MDM made an allegation of fraud but had failed to report it directly at the polling station and their allegations were therefore never considered. They expressed great dissent over this system. It has already been mentioned that due to the size of the election it was hard for the parties to have qualified personal at all sights, meaning it also hinders that they can fully use their right to make an allegation of fraud and have it tested. The smaller parties have less manpower to access. The structure that deals with and should test allegations of fraud are very important to hinder electoral dissent and violence.

The revision of the electoral laws was one of the main aspects that was supposed to generate a peaceful election and an end to the hostilities that had plagued Mozambique for about a year. The outcome of the election was however the opposite with massive accusations of electoral fraud and an increase in violence between RENAMO forces and government troops. A new truce was finally reached in December 2016, but then only temporary. In May 2017 Dhlakama and President Nyusi announced the truce will be permanent. The experienced flaws of the CNE, STAE and the constitutional council are however major aspects to consider before the upcoming 2018 municipal elections and 2019 general elections. These institutions need to be trusted by all parties and an increased politicization does not seem to generate that.

Section IV - Key factors in Dealing with Electoral Violence in Mozambique

Electoral violence in Mozambique has been a constant feature during every election since the first was held in 1994. There are different reasons for this but much seems to steam from high levels of distrust between the parties, and distrust by the opposition parties in the functioning of the political system. There are measures that are needed to address the short-term aspect of re-establishing a peaceful situation in the country, and measures that should be taken in concerns to create a system that can enable long term political stability. Mozambique has a violent past and a political system that is still composed of the same actors. The 2014 general election was also conducted during an ongoing political crisis where violence was present. Elections with such features can both provide stability or increase tension. In Mozambique, it was unfortunately the latter. It is however clear that the 2014 general elections were mainly peaceful and well-conducted (EU report 2014, AUEOM 2015, EISA 2014). There are however some main points that could be considered in dealing with electoral violence in the post-election phase in Mozambique.

De-politicisation of the State and the Electoral Institutions

Elections need to be trusted by all parties involved. This is the main reason for discontent in the Mozambican context. Trust is however a very difficult aspect to create but measures can be taken to increase trust between the parties but primarily in the institutions. Parties involved in an election need to trust that the electoral institutions work in a neutral manner. Prior to the 2014 general election the electoral law regarding the electoral institutions CNE and STAE were altered to encompass more politically appointed staff. This is in all levels of the organisations, all the way down to polling staff. This was demanded by the opposition parties since they did not trust that a public service body would work in a neutral manner, but it would function in the benefit of the governing party FRELIMO. A politicisation of the electoral institutions is however problematic since neutrality is then instantly removed. It also caused logistic implications since the new law required that a certain number of political staff should be present at each polling station. This required a massive training session of brand new polling staff that came from the political parties. Many who had never worked in a polling station. It was also in some locations impossible to find enough staff with a political affiliation, meaning that these polling stations were officially breaking the law by not having the right allocation of political staff. Having political staff at polling stations have many negative implications for elections and it is therefore not advised, it is especially due to neutrality and professionalism.

It was a key factor prior to the 2014 elections to change the composition of CNE and STAE to incorporate the political parties to gain trust. Trust was the key word. The basis for the lack of trust does however go further than the electoral institutions. It is in Mozambique a problem that all services by the state is considered to work and act in favour of the governing party FRELIMO. FRELIMO are believed to control public service by demanding partisanship for employment. The reason that opposition parties distrust the electoral institutions stems from this overall distrust in the neutrality of the state. A de-politicisation of the state is the most important factor in dealing with electoral violence in Mozambique. Police and military forces are often accused of working in the benefit of the ruling party during election campaign periods. Government media is accused of reporting beneficially towards FRELIMO during election campaign and electoral institutions are viewed as all other parts of public sector, as only employing staff that are members of FRELIMO.

In relation to CNE and STAE it would be most beneficial if they could maintain true neutrality and consist mainly of well-trained neutral staff. The most important aspect for this would be an open and transparent employment process where people are clearly employed based on skills. This would limit possibilities of distrust and it would remove the possibility to discredit the work of CNE and STAE due to political issues. A highly professional workforce would also mean safer and more accurate elections. This is however part of a larger societal issue and a de-politicisation of the entire state would be highly beneficial for the Mozambican society. Trust is a normative value that needs to be built on all levels. Mozambique has finally after years of turbulence agreed to peace again from May 2017. It is now important to work continuously to re-establish trust in the society.

Dialogue as a Key Factor for a Peaceful Political Situation

One of the main things that needs to be addressed is the lack of dialogue between all involved parties. This aspect is dual, as in dialogue to handle the current crisis, and in establishing permanent avenues of dialogue. Mediators have been involved in trying to establish dialogue between FRELIMO and RENAMO since the end of the civil war. Reverend Dinis Sengulane is one of these mediators that has been active since the end of the civil war and is still today active in the mediation process between the government and RENAMO. He emphasises that we need to establish permanent avenues of dialogue instead of only

putting out the fire every time it occurs, which seems to be in relation to every election.

"There has been a lack of dialogue, we are acting like a fire brigade. [...] The fire brigade puts out the fire but they do not care for the cause of the fire. We have had dialogue to solve crisis, but not as a normal feature of society" (Reverend Dinis Sengulane, Mediator in the dialogue between FRELIMO and RENAMO, present since 2012 and during the peace process of 1992)

There is something faulty in the system when the parties experience that they cannot be heard unless they go down a violent path. There have been accusations of fraud in relation to every election, followed by threats of violence, or acts of violence, which is then followed by rounds of negotiation and mediation. Dialogue is initiated to solve the crisis.

This does however also open for the continued misuse of the system, since we see that it pays off to use violence. Negotiations will enable to put things on the table that you could not have achieved within the normal parameters of politics. This form of informal negotiations and dialogue is also limited in transparency and will most likely only benefit the elites of the parties and not the voters. It also limits the political dialogue to the parties involved in conflict, and not all parties involved in politics.

"The dialogue process in Mozambique cannot keep on being just between two parties. The parliament must be involved because the parliament is the only one institution which legitimately represents the population. This is why they should move negotiations to the parliament and make the negotiations open for the civil society as well as many other different active forces of the society. The core has to be the parliament". (Mr Lutero Simango, MDM MP, head of parliamentarian bench)

Dialogue as a mean to end a crisis is an important avenue instead of using violence, but the main problem is often that parties feel that they have no alternatives of getting heard in the first place. Their grievances will not be listened to without guns. Dialogue is therefore the key factor to establish as a permanent component of a political system throughout, and not only in relation to elections. Media must work in a functioning manner to report on all sides of politics. Civil society must be active in discussions of policy matters and the opposition must feel that there is a working parliament where they can express their opinions as an opposition and debate in a just manner. If dialogue is a constant feature of the political system and a constant feature between the parties, they will have means to discuss issues without using violence. Mozambique must establish more permanent ways of creating avenues for dialogue for all members of society which will also enable the opposition to feel heard.

"Disarm Both our Hands and our Minds"

One other key aspect that lies in the background of electoral violence in Mozambique is the access to guns. RENAMO is an opposition party that has remained with an armed force for more than 20 years after the end of the civil war. It is often repeated that the peace agreement from 1992 was insufficiently implemented since disarmament was never completed. The leader of RENAMO still today has his own security force, but the former soldiers of RENAMO are also scattered around the country and they have kept their guns and await command from the leader of RENAMO if, and when actions are needed.

"I received reports of confrontations in Morrumbala between police and former guerrillas of RENAMO and very soon we may hear of confrontation elsewhere, because those former guerrillas are everywhere, such as Inhambane, Maputo, etc. [...] They have central command. The president Dhlakama still has the command. [...] I do not know if they are going to remain peacefully while they know that they are being chased." (Mr Namburete, RENAMO MP and Head of external affairs)

A key factor in establishing a peaceful political situation in Mozambique is to disarm the involved

groups. A political party cannot and should not have the means to use threats of violence to contest an election result. If RENAMO is empowered by its access to guns there is a risk that they will always choose this option when they see the need to. It is however then also necessary to listen to RENAMO when they claim they need to have their own armed force since FRELIMO, the government, is misusing the armed forces of the state, meaning both police force and national armed forces. It is important to re-establish a system based on the rule of law where the right to use force is strictly controlled and never used in a political struggle. Both parties involved in the crisis in Mozambique must disarm.

Reverend Dinis Sengulane, mediator in the negotiations between FRELIMO and RENAMO, used the phrase that we must “disarm both our hands and our minds”. He inclined that there is a mind-set among the involved that violence can be used when we are not heard. This mind-set must change; violence cannot be a viable option.

The Role of Civil Society

The political system in Mozambique have been strongly shaped by the relationship of the two main parties. The system is shaped formally and informally by this hostile ‘us’ and ‘them’ demagoguery, and it has been the case for the last 40 years. This creates a situation where normal politics is hard to conduct. Mozambique is a young democracy with a still underdeveloped civil society. Civil society could however play an important role in establishing a political arena, an arena for discussion, that do not revolve around belonging to a party. This could establish an arena for dialogue and an arena to be heard.

Civil society is also an important actor as a counter weight between the government and the opposition. The opposition parties today experience that they are up against a leviathan, a force that holds control of all aspects of society, meaning that they have no other means than to restore to threats and violence. A strong civil society will diminish the influence of the government, since the government will be watched by and judged by the civil society. Civil society is a neutral actor that can enhance transparency of the political system if they are invited in to, and can sufficiently take part in, the political arena.

Mozambique is, as mentioned, a young democracy, meaning that the values and norms of democracy may still not be fully incorporated within the minds of the population. 70 percent of the population in Mozambique agree to the statement that ‘The government is like a parent. It should decide what is good for us’ (Afrobarometer 2012). This indicates that there is low understanding on what democracy is and how people can and should utilise their government. The people is always the main leverage in any democracy because the people will demand that the standards of democracy are withheld by its actors. In a new democracy, all people may however not fully comprehend what this entails. This can be formally educated in schools, but it can also be very valuable to have it incorporated into society through the actions of a strong and vibrant civil society. Strengthening the role of civil society is therefore an important aspect in creating awareness of democratic norms and values, and how a democracy is controlled by the population.

Society in Mozambique needs to be depoliticized in relation to the political parties. Politics is not only about ‘being FRELIMO’, or ‘being RENAMO’, politics should be about the issues at hand, the discussions of what society needs. A stronger civil society can force the parties in Mozambique to go back to discussing political issues instead of focusing their energy on destroying the other.

Sector V – Conclusions and Recommendations

Conclusions

Mozambique is a new democracy, transitioning from a state of conflict. The general elections in 2014 marked 20 years since the completion of the first democratic multi-party elections in the country, and 22 years of peace. Mozambique has completed five general elections and four local elections. Coming from a long period of one-party rule and an ongoing protracted conflict this is a remarkable achievement. The transition to becoming a fully functioning, consolidated, democratic country is not easy, it is about establishing institutions but foremost is it about establishing norms, trust, understanding and a democratic culture. Mozambique is on a path to complete this task. It is however alarming that the last couple of years have seen an increase in the use of violence, an increase in state control, and an increase in oppositional dissent expressed outside of the political arena.

Mozambique has formally a rather well established democratic system, built on the rule of law, but parallel to that system is an informal system that substantially affects the political system, the political arena, and the interplay between the parties. The ruling party, FRELIMO, has been in power for over 40 years, for the first part as a one-party state. The informal structures of that system linger on within the new system, and there is today little separation between ruling party and state. There is also a strong legacy of conflict between the two main parties that hinders them from collaborating fruitfully within the political system as only political opponents to each other, instead they are acting as enemies.

Trust is a key concept in a functioning democratic political system, trust between parties, trust in the institutions, and the peoples trust in the actors of the government to perform in their interest. In Mozambique on the other hand there seems to be a lot of distrust that shapes the political situation. The two main parties exist in a constant situation of distrust, which leads them back to a violent relationship, rather than an oppositional relationship.

Electoral violence has become a mean to express dissent, a mean to contest election results. This has been a prevalent feature in every election, since the completion of the first election in 1994. RENAMO, the main opposition, has no trust in the electoral process and its institutions and claim that FRELIMO, the government party, has stolen every election. The election of 1999 was followed by some very violent outburst that lead to the death of several civilians, and since the last election in October 2014 has the country been in a constant political crisis with several instances of violent clashes between government forces and RENAMO armed force, leading to deaths and civilians fleeing their homes, and the country. This crisis is still not solved, making it hard to discuss in full light.

A permanent truce is now in place since May 2017 meaning that an important time lies ahead in solving the underlying issues to bring about stability for Mozambique. It is as mentioned a complex process but some more concrete actions can be taken both in general political life and in relation to elections.

One major issue is to increase dialogue, especially between FRELIMO and RENAMO, and this dialogue should be facilitated by neutral parts of society, with engagement of civil society to engage the population and increase transparency. Negotiations have been held between the two conflicting parties when needed but hidden, meaning that there is no transparency to the process. Dialogue needs to be open and constant. This facilitates trust and an increased understanding of democracy. It is also important that these discussions are open to the public so that the population feel involved. Civil society and the political parties should share the responsibility in enabling dialogue.

Dialogue should be a constant recurrent feature of the political system, but it is at the moment highly important to break the ongoing conflict between FRELIMO and RENAMO, especially with the soon upcoming local elections in 2018. The International community and regional organisations could here play a valuable part in pressuring the parties and in negotiations between them. Their involvement could lead to increased neutrality and transparency in the political arena.

Channels and avenues for political discussions should to be increased, meaning informal platforms, education and school, civil society and foremost media. Media and the freedom of press is one of the most important aspects of a functioning democratic system and an aspect that needs to be strengthened in Mozambique. It is alarming that the country has been dropping positions on the freedom of press index during the last four years, indicating that it is getting worse rather than better. The new avenues of social media can become vital players in this market, such as blogs and Facebook. It is however important that also these avenues are free from interference of state control. The recent court decision in Mozambique that freed journalist Castel Branco, who wrote demeaning things about former president Guebuza on his Facebook, shows that Mozambique's legal system is working and can guarantee freedom on social media. All forms of media must be allowed to operate freely.

Increasing dialogue and political discussions also requires a well-informed population. Civic education on democracy and political issues should be increased and be a continuous process. In relation to election it is however also important to increase voter education. The issue of trust is hard to deal with since it incorporates years of hostility and a long legacy of violence between the parties. It is however clear that some issues of trust can be regulated with a functioning political system and electoral institutions.

Recommendations

First, political parties should not have an armed wing. The disarmament and demobilization process in Mozambique must be completed. This should be undertaken immediately and be overseen by an impartial third party. The 1992 peace agreement was never fully implemented leaving a trace of guns and a trace of distrust. The parties are stuck in a security dilemma where they are both feeling the need to protect themselves. This should not exist between political parties within a political system, in a country with a state system built on the rule of law. The opposition party, RENAMO, feel the need to maintain their own security force, their own armed force, to protect themselves against the government, or against FRELIMO's control of government forces. Neither FRELIMO, nor RENAMO, should have the access to use violence as a mean against the other side.

Second, the above distrust in the government comes from the idea that FRELIMO controls government forces. It is most important that a de-politicisation of the state is undertaken in all spheres of state and public sector. There should be open and transparent employment processes to all levels of state employment and public sector.

This issue also concerns the CNE and STAE. It should be considered if it is wise to remain having these two institutions controlled by and functioning on politically appointed personal. A neutral and professional workforce should increase the efficiency of the institutions and the trust in the institutions. The implementation of the electoral law needs to be transparent enough so that all parties can feel that they trust the outcomes of the elections. Electoral violence in Mozambique is and has historically been used to contest the results of the elections, to be heard about the injustices of the electoral process. The report of the EU observer mission for the 2014 election (EU Report 2014) indicates that substantial and plentiful discrepancies were present during the elections, meaning that the result will always be hard to

trust, for those who are on the losing side. The electoral institutions are partisan to create insight but this also increases their stake in the process and the possibility to question them. If political representation is needed to maintain trust in the institutions, they should only hold observatory positions. CNE and STAE should deliver well-trained personnel to all polling stations and this should be their responsibility without any reliance on political parties. CNE and STAE also need to clarify what mechanisms are in place to leave complaints to avoid discontent. Many allegations of fraud were simply discarded by the Constitutional Council since they had been applied in a faulty manner. It should be simple and clear structures for this, and clear instructions must be available to all stakeholders.

One last very important recommendation is to address the issue of decentralisation. Much dissent lies in the fact that people do not feel governed by the party they voted for. A more profound decentralisation of power would be valuable for stability in Mozambique. Parliament should work closely on this issue, which should be a joint endeavour by all parties.

Democracy is a process and it takes time. Mozambique is on the path of transition from a violent past to becoming a working democratic country. Recent events and the current political crisis between the two main parties reminds the country of the past and it brings the country back into the same routes of the past, where disagreement is solved with violence and threats instead of debate and dialogue. The country needs to move back to the path that leads to a peaceful future, and they have every opportunity to do so with the will of the parties involved.

Namibia

Author : Maximilian Weiland

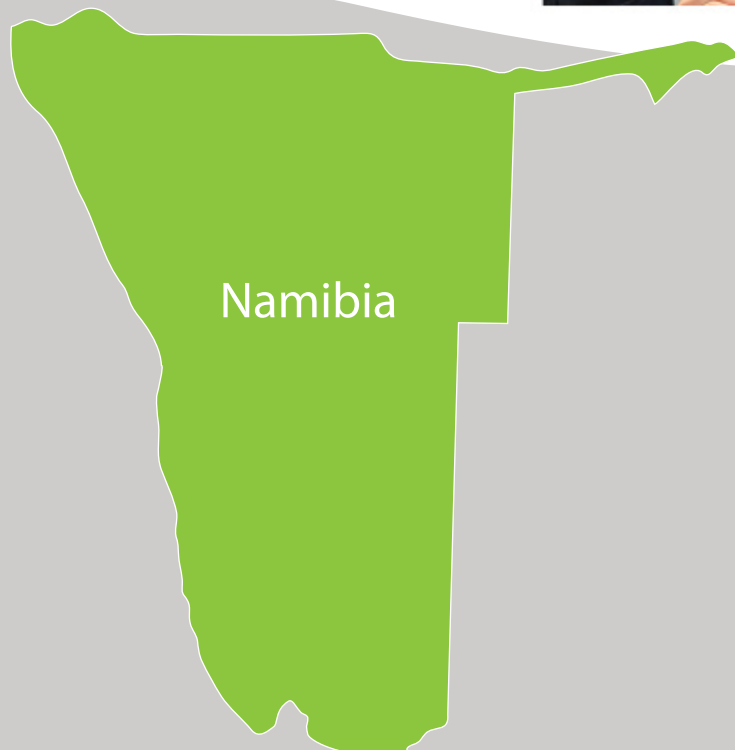


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Introduction

Namibia's democracy is often cited as a role model for peaceful democracy in Southern Africa.¹ Elections generally occur without major incident, and international observers have approved of every election since independence. Among the good press, it is easy to forget that Namibia is a post-conflict society. Armed combat, while restricted to the northern regions, only ended 26 years ago, and still looms large in the national political imagination. The rallies of the ruling party still frequently list peace as a major accomplishment, reminding citizens of its recent, grim alternative. Electoral violence often occurs in post-conflict societies,² and Namibia is not entirely exempt from this trend.

While Namibia has an overall low incidence of violence, some harassment and intimidation do occur usually small-scale clashes between supporters. This chapter notes some features of electoral violence in Namibia. First, levels of electoral violence tend to fluctuate. While elections tend to be calm, with minimal disruption, two elections – 1999 and 2009 – featured an uptick in violence. This is likely because these elections saw the emergence of new parties, which were thought to present a real threat to the dominance of the ruling party. Violence in elections also tends to be concentrated to certain regions, most notably the central north. Finally, a recurring topic of discussion concerns 'no-go zones,' areas which are claimed one party, and vigorously defended against opposition activity or against advertisement – even with violence.

To study electoral violence in Namibia, this chapter uses a typology of electoral violence from a report on gender and electoral violence by Bardall.³ The typology enumerates three types of electoral violence: physical, economic, and social-psychological. Using this framework has two advantages: for one, it allows for a look at how women and men experience electoral violence differently. Secondly, it expands the definition of electoral violence to include many acts that would otherwise be overlooked.

In addition to a desk review of existing literature and interviews with experts, a survey of 136 individuals was conducted over the course of three days. Respondents were asked about their experiences of the three sub-types of electoral violence listed above. Overall, the study confirmed what other surveys such as the Afrobarometer have previously indicated: electoral violence does not represent a concern for a majority of Namibians. However, a significant minority of respondents – between 20 and 35 percent – showed concerned about a variety of forms of violence around election time. Namibia's reputation as a haven of peace is thus broadly accurate, as there really is comparatively little violence when compared to the rest of the continent. In absolute terms, however, a lot of improvement is needed to free the country from electoral violence in both its physical manifestations and psychological impacts.

1. Literature Review and Theoretical Framework

1.1 The Concept of Electoral Violence

In the academic literature, electoral violence is a relatively recent field of study in its own right, often having been grouped in with political violence more generally. This means that there are a number of

1 See, for example, the country's favorable scores in the annual *Freedom House* ranking

2 Kristine Höglund, "Electoral Violence in Conflict-Ridden Societies: Concepts, Causes, and Consequences," *Terrorism and Political Violence* 21, no. 3 (2009): 412–27.

3 Gabrielle Bardall, "Breaking the Mold: Understanding Gender and Electoral Violence," White Paper (International Foundation for Electoral Systems, December 2011).

contesting definitions of electoral violence, as no consensus has been reached yet. At the very least, scholars tend to agree with Höglund that “electoral violence displays particular features and manifests itself in forms that are distinguished from political violence more generally.”⁴ Omotola points out that violence does not have to occur just on election day to count as electoral violence, but can happen before and after the polling day.⁵ Meanwhile, many scholars have listed different forms of electoral violence.

Fisher provides a simple and broad definition of electoral violence that can act as a basis for analysing its incidence in Namibia: Electoral violence is “any random or organized act or threat to intimidate, physically harm, blackmail or abuse a political stakeholder in seeking to determine, delay or to otherwise influence an election.”⁶

While there are many lists of these forms of violence – such as the one provided by Höglund herself scholars have not been able to agree on a typology. For example, Staniland’s approach encompasses seven types of electoral violence. For him, the key distinguishing features are the actors committing the violence (state, non-state ally, opposition, or unaligned), and whether their goals are “intra-systemic” or “anti-systemic”. Thus, a state actor pursuing intra-systemic goals would manifest itself as “security forces deployed to manipulate election to maintain power,” while an anti-systemic opposition would want to undermine democracy as a whole and destroy the regime.⁷ Burchard, on the other hand, arrives at four types of violence: incidental, strategic-suppressive, strategic-mobilizing, and strategic-disruptive. The same methods can be used for different aims (such as riots), and Burchard also differentiates timing and perpetrators.⁸ Other typologies can be found in Kehailia and Cyllah et al.⁹

1.2 Theoretical Framework: Electoral Violence as a Gendered Issue

Recently, scholarship has begun to point out that much of the existing work on electoral violence overlooks or undercounts forms of electoral violence that affect women in particular. Summarizing a project by the International Foundation for Electoral Systems (IFES), which analysed event data from six countries, Bardall concludes that “women’s experience of election violence is fundamentally different from that of men.”¹⁰ The project found that in every category of violence examined, women and men were differently affected. Thus, for example, while men are often subject to higher rates of physical violence, women suffer more from what they classify as ‘social-psychological’ violence.

This chapter uses the typology developed by Bardall to conceptualize electoral violence in Namibia. For Bardall, there are three broad types of electoral violence: physical violence, economic violence, and social-psychological violence. Physical violence encompasses forms of violence that have traditionally occupied the forefront of scholarship, such as murder, beatings, and destruction of property.¹¹ Economic

4 Kristine Höglund, “Electoral Violence in Conflict-Ridden Societies: Concepts, Causes, and Consequences” 413.

5 Shola Omotola, “Explaining Electoral Violence in Africa’s ‘new’ Democracies,” *African Journal on Conflict Resolution* 10, no. 3 (2010): 56, <http://www.ajol.info/index.php/ajcr/article/view/63320>.

6 Jeff Fischer, “Electoral Conflict and Violence,” *IFES White Paper* 1 (2002): 3, <http://unpan1.un.org/intradoc/groups/public/documents/un/unpan019255.pdf> cited in Bardall, 2011 and Wallsworth, 2015.

7 Paul Staniland, “Violence and Democracy,” *Comparative Politics* 47, no. 1 (2014): 99–118.

8 Stephanie M. Burchard, *Electoral Violence in Sub-Saharan Africa: Causes and Consequences* (Boulder, Colorado: FirstForumPress, A Division of Lynne Rienner Publishers, Inc, 2015).

9 cited in Gregory Wallsworth, “Electoral Violence: An Empirical Examination of Existing Theories,” Working Paper, October 28, 2015, 4.

10 Gabrielle Bardall, “Gender-Specific Election Violence: The Role of Information and Communication Technologies,” *Stability: International Journal of Security & Development* 2, no. 3 (2013): 1, doi:<http://dx.doi.org/10.5334/sta.cs>.

11 Bardall, “Breaking the Mold: Understanding Gender and Electoral Violence,” 6.

violence includes actions such as threats to businesses, terminations of employment (or threats thereof), the exploitation of refugees or abuse of traders.¹² Finally, social-psychological violence spans the gamut across the subcategories of psychological intimidation, social sanctions and punishment, familial pressure, child abuse, and domestic violence.¹³ (The full typology is extensive and cannot be reproduced here, but is attached in the appendix).

The gender-sensitive approach proposed by Bardall is useful in two ways. Firstly, it highlights the difference in experiences between men and women when it comes to experiencing violence before, during and after elections. A study on electoral violence should investigate whether women experience different forms of violence, or experience violence in different ways. The results section of this chapter therefore, when looking at the outcomes of the survey conducted as part of this study, studies whether the gender of respondents made a difference in their responses. More broadly, however, Bardall's typology is useful because it expands the view of what counts as electoral violence. In the context of this study, it means that electoral violence was not just defined as it traditionally was, meaning physical clashes and outright intimidation. Rather, the survey tried to look at economic pressure and social-psychological infringements as well. Thus, this framework not only allows us to see if women and men are treated differently, but also enables the detection and description of forms of electoral violence that have hitherto been ignored – whether they affect women, men, or both.

2. Methodology

To evaluate historical incidents of electoral violence, a desk study of existing reports was conducted. This review included a variety of sources ranging from newspaper reports to academic books and journal articles, as well as reports from the Electoral Commission of Namibia. There is no authoritative list of political violence events in Namibia. The Electoral Commission does not compile statistics on the matter – rather it refers cases to the police as they come in, considering it to be a criminal offence first and foremost¹⁴. This study relied on accounts from observers to understand fluctuations of violence, while providing concrete examples drawn from a variety of sources.

2.1 Survey

As part of this research, a survey was conducted to gauge Namibians' views of electoral violence, and in particular to see whether there was a gendered difference in their perceptions.

Wallsworth explains the usefulness of surveys when it comes to studying electoral violence:

The main advantage of using a survey response is that the survey provides measures of each person's perceived level of the threat, individual-level demographic characteristics, as well as ... [political] behaviour. Furthermore, not all violence can be captured in event data. Threats of harm are one particular category, included in the definition of electoral violence, that event count data would be incapable of capturing¹⁵.

Wallsworth also notes that surveys can capture types of violence that would escape a newspaper search. As the literature lists a wide range of types of violence, so this survey too looked to ask respondents about as many of them as feasible, while keeping the questionnaire manageably short. The survey

¹² Ibid., 7.

¹³ Ibid., 8.

¹⁴ Official, Electoral Commission of Namibia, July 26, 2016.

¹⁵ Wallsworth, "Electoral Violence: An Empirical Examination of Existing Theories," 14.

asked questions about economic, physical, and socio-psychological types of violence. Thus, for example, it included questions on businesses being boycotted, physical clashes between supporters, and psychological pressure. Further, it asked respondents both about their outward-looking assessments of these acts (i.e. “During election time, how often do you think people boycott a business owned by people who support another party?”) as well as their personal fears and experiences (e.g. “how much do you personally fear becoming a victim of political intimidation or violence” or “when it comes to deciding who to vote for, how much pressure do you feel from your family?”). The survey was administered to a total of 136 people over a period of three days.

2.2 Interviews

In addition, semi-structured interviews were held with a small number of informants selected for their expertise. Informants included a member of a political party who had witnessed violence first-hand, employees of the Electoral Commission of Namibia, and political experts. Informants were asked broad questions on a variety of topics. They were asked to give their assessment of electoral violence in Namibia, and asked to explain why they thought the level of violence is the way it is. They were asked about contributing factors to electoral violence. Respondents were asked whether they thought women and men experienced electoral violence differently. However, care was taken to not ask questions that were too specific. The advantage of the semi-structured interview format is that it allows interviewees’ expertise to guide the conversation. This can open new avenues for inquiry, and thus allows for the gathering of information that would otherwise not have been shared. At the same time, there was enough focus to ensure that conversations would not derail to the point where digressions took attention away from the issue at hand.¹⁶ The practice of speaking with political party members always presents a problem, as they have strong incentives to present information in a way that benefits their parties. In such interviews, parties can be expected to claim oppression by others while maintaining the innocence and good behaviour of their own supporters. However, speaking with them is indispensable as they hold unique insights into the conduct of elections given their direct involvement in the process.

Interviewees were given the option to remain anonymous in their responses, and were also told that they could speak on the record whilst keeping certain statements anonymous. To further ensure that respondents felt comfortable during the interview, respondents received the opportunity to choose the location of the interview. Interviews were recorded – with the consent of subjects – and notes were taken throughout to mark important points. Later, the relevant portions were transcribed to ensure the accuracy of statements.

3. Electoral Violence in Namibia: Incidents and Perceptions

Namibia has a relatively short history of elections, having held only six General elections since independence in 1990. The country generally enjoys a reputation as a peaceful country, and its elections share this reputation. However, while it is true that Namibia has witnessed less violence than other countries in the region, it has not been entirely free from violence. Importantly, the amount of violence has tended to fluctuate, suggesting that peace is not always guaranteed.

1.1 Transition to Independence

¹⁶ Norman K. Denzin and Yvonna S. Lincoln, *Collecting and Interpreting Qualitative Materials* (London: SAGE, 2003).

The first election is of particular interest, seeing as it marked the transition from war-time to peace. Inhabitants of the northern areas of Namibia in particular had been terrorized for years in a violent border war that saw South West Africa People's Organization (SWAPO)-led guerillas fight South African military forces in a complicated conflict across Namibia and neighbouring Angola. Unsurprisingly, this first election was the most tumultuous one in the history of Independent Namibia. A Commission for the Prevention and Combating of Intimidation and Electoral Malpractices, set up in mid-1989, received about two hundred cases – hence, as one observer laconically put it, “for certain there was some intimidation”¹⁷.

Wallace, in her authoritative history of Namibia, puts it more strongly. She writes that the transition to democracy was “dogged by major problems, especially widespread intimidation of the electorate, particularly by Koevoet”¹⁸ – a special police unit that committed violent acts of political suppression, including torture, during apartheid. On one occasion, the Democratic Turnhalle Alliance (DTA was SWAPO's main competitor at the time) recruited hundreds of Koevoet operatives as field workers, and had the men march on SWAPO's offices, where officials reportedly jumped out of windows to run away.¹⁹ In addition to threats from Koevoet and the DTA, “a significant number of SWAPO members were killed during the transition.”²⁰ A prominent SWAPO leader was assassinated in front of his house, and white supremacists bombed a UN office.²¹ A few days after the election, a former Koevoet member was reportedly shot to death by SWAPO supporters after he refused to remove a DTA flag.²² The immediate post-election period saw further violence, with an article in early December 1989 stating that nine more civilians had been killed, with Koevoet blamed for the deaths.²³

Still, observers thought that given the context, violence had been lower than it could have been. A UN official in Namibia writes that while there was a “high level [of violence] during the summer preceding the formal campaign,” violence had been reduced to “negligible significance immediately before the balloting.”²⁴ Another observer noted that neighbours with different political leanings refused to become adversarial because, in their words “we will still have to be neighbours after the election.”²⁵ As Wallace puts it, “that the actual transition to independence was ultimately achieved peacefully is all the more remarkable, considering the level of repression that South Africa had imposed on the territory.”²⁶

1.2 Other Elections: Few Incidents in 1994, 2004, 2014

Other elections have tended to be more peaceful, often to a degree where violence is considered a negligible issue. After the next election, in 1994, a Commonwealth Observer Group wrote that “fears of intimidation and violence did not materialize, and on the contrary, voting generally took place throughout

17 Franz Ansprenger, “The Electoral Process: Statement of Franz Ansprenger,” in *The Namibian Peace Process: Implications and Lessons for the Future*, ed. Heribert Weiland and Matthew Braham, Freiburger Beiträge Zu Entwicklung Und Politik 12 (Freiburg: Arnold Bergstraesser Institute, 1994), 157.

18 Marion Wallace, *A History of Namibia* (Auckland Park: Jacana Media, 2011), 306.

19 Wessel de Kock, “DTA Co-Opts Koevoet in Runup,” *The Cape Times*, November 2, 1989.

20 Wallace, *A History of Namibia*, 306.

21 Bryan O'Linn, *Namibia: The Sacred Trust of Civilisation: Ideal and Reality*, Revised Edition, vol. Volume I (Windhoek: Polination Publishers, 2009), 348–49.

22 “Former Koevoet Man Shot Dead by SWAPOSWAPO Gunmen,” *The Citizen*, November 17, 1989.

23 “Koevoet Linked to Deaths in Namibia,” *The New Nation*, December 1, 1989.

24 Paul Szasz, “The Electoral Process: Statement of Paul Szasz,” in *The Namibian Peace Process: Implications and Lessons for the Future*, ed. Heribert Weiland and Matthew Braham, Freiburger Beiträge Zu Entwicklung Und Politik 12 (Freiburg: Arnold Bergstraesser Institute, 1994), 150.

25 Ansprenger, “The Electoral Process: Statement of Franz Ansprenger,” 157.

26 Wallace, *A History of Namibia*, 307.

the country in a peaceful, orderly and good-humoured manner”²⁷ The election was not entirely free from incident – but the Electoral Commission only had to deal with two alleged incidents where the DTA had complained of SWAPO threats or disruption²⁸. In addition, the DTA claimed SWAPO had disrupted four of its meetings whereas SWAPO claimed DTA had threatened voters – but “accusations of intimidation were otherwise scarce.”²⁹ The Electoral Commission’s Report on the 2004 Regional Council elections states that “no single official presentation of an incident of conflict or intimidation during voting was reported”³⁰ The Presidential and National Assembly elections the same year also saw no incidents on the day reported to the Commission³¹.

The most recent major election, the 2014 Presidential and National Assembly election, also occurred in a generally peaceful atmosphere, though it did witness some incidents of violence and intimidation. This is borne out by a timeline provided by *Election Watch*, a Civil Society Organization (CSO)-run elections project³². The infractions run the gamut of behaviour. A radio presenter told listeners to vote lest they lose essential services. Supporters of the ruling party and the RDP clashed over the placement of party flags on a tree. The placement of posters caused a fist-fight, again between RDP and SWAPO supporters, while DTA and SWAPO supporters clashed at local shebeens in the Okalongo Constituency. Less than a year later, in the run-up to regional and local authority elections, a number of further incidents made the news. Three women claimed that men in SWAPO attire attacked them with weapons, and alleged that police mocked them for wearing RDP colours. In the Omusati region, a group of SWAPO supporters surrounded a house belonging to an RDP member, set a party flag on fire and threatened to torch his house. On the same day, a group of SWAPO supporters tried to disrupt a rally of DTA supporters, but were prevented by the police from doing so. Meanwhile, supporters of SWAPO and UDF hurled insults at each other, but police intervened before physical harm was done. The above list, which enumerates incidents covering just the latest electoral cycle, shows once more that electoral violence in Namibia is not as grave an issue as it is in other countries in the region – but it also shows that Namibian citizens witness a range of types of electoral violence, and witness them to some degree of regularity.

1.3 Heightened Competition, Increased Violence: the 1999 and 2009 elections

Several observers have noted that the 1999 and 2009 elections saw a noticeable increase in violence, however. In both cases, this was because of the emergence of a new opposition that sought to finally break SWAPO’s stronghold on the votes of the electorate. In 1999, the party was the Congress of Democrats (CoD), a splinter group of former SWAPO supporters who criticized what they saw as an authoritarian culture in the party.³³ Observers noted that the tone of election campaigns became unusually tense. A minister accused CoD members of being ‘traitors and spies,’ and other prominent party members accused the CoD of running a military training camp.³⁴ Lodge notes that newspapers noted 22 “instances of serious intimidation of opposition parties by SWAPO supporters during October

27 Gerhard Töttemeyer, “The Legal Framework and Organisational Requirements,” in *Elections in Namibia*, ed. Gerhard K H Töttemeyer, Arnold Wehmhörn, and Heribert Weiland (Windhoek: Gamsberg Macmillan Publishers, 1996), 78.

28 Gerhard Töttemeyer, “The History of Elections in Namibia,” in *Elections in Namibia*, ed. Gerhard K H Töttemeyer, Arnold Wehmhörn, and Heribert Weiland (Windhoek: Gamsberg Macmillan Publishers, 1996), 88.

29 Gerhard Töttemeyer, “The Presidential and National Assembly Elections, 1994,” in *Elections in Namibia*, ed. Gerhard K H Töttemeyer, Arnold Wehmhörn, and Heribert Weiland (Windhoek: Gamsberg Macmillan Publishers, 1996), 98.

30 Electoral Commission of Namibia, “Regional Councils Elections Report 2004,” 2005, 31.

31 Electoral Commission of Namibia, “Presidential and National Assembly Elections Report 2004,” 2005, 48.

32 Election Watch, “Violence and Intimidation Monitor,” 2015, <http://www.electionwatch.org.na/?q=node/474>.

33 Gretchen Bauer, “Namibia in the First Decade of Independence: How Democratic?,” *Journal of Southern African Studies* 27, no. 1 (March 2001): 44, doi:10.1080/03057070120029491.

34 Tom Lodge, “Heavy Handed Democracy: SWAPO’s Victory in Namibia,” *Southern Africa Report*, February 2000.

and November,” ranging from the disruption of rallies to assaults on opposition supporters.³⁵ The CoD called this the *start* of political violence in Namibia, illustrating just how much the level of violence had increased from the past.³⁶

2009, the election that saw the emergence of the Rally for Democracy and Progress (RDP), was also distinctive for its tense climate. RDP claimed many instances of harassment, from party materials being tampered with, to rallies harassed, to boycotts of businesses and outright violence. Thus, for example, an RDP flag was burned,³⁷ and police had to intervene to turn a clash between activists turning violent.³⁸ An RDP activist interviewed for this report stated that on a visit to Lüderitz, SWAPO supporters physically accosted the campaigning RDP members and threw stones at the speakers.³⁹ In one instance, a newspaper even reported a politically motivated stabbing⁴⁰.

Tensions likely ran higher in 1999 and 2009 for two reasons. The first is that both CoD and RDP seemed to be formidable adversaries to SWAPO. CoD was the first serious challenger that was not weighed down by associations with the apartheid era, as the DTA had been, and the struggle credentials of party leader Ben Ulenga indicated that the party might be able to make inroads into SWAPO’s support⁴¹. As Lodge writes, “the CoD seemed to represent a more alarming threat to SWAPO’s influence over its historical support base than any other political grouping emerging in the past”⁴². This impression was even stronger with the RDP. Its leader had only narrowly missed out on being nominated as SWAPO’s presidential candidate, and he took an entire faction of political heavyweights to the new operation with him. In retrospect, it is clear that neither CoD nor RDP ever presented a serious threat to SWAPO at election time – but no-one knew this before the polls. Both times, observers seemed to think the new parties were a real threat. Another reason for this heightened conflict is that both CoD and RDP were started by former SWAPO members. SWAPO supporters would therefore have seen acolytes of these new parties as ‘traitors’ – a term used with great frequency, including by senior politicians. The current President Geingob once called the CoD “Congress of Deserters”⁴³, and a minister accused the CoD’s Ulenga of giving up SWAPO secrets to the South Africans during Apartheid⁴⁴. As the RDP split from SWAPO, then-President Pohamba called them “Judas Iscariots”⁴⁵.

When violence occurs, it is usually perpetrated by individuals far removed from political parties’ central structures. Officially, parties always distance themselves from violence and maintain that they remain committed to following the code of conduct. However, individual politicians have made comments that can be seen as inciting electoral violence – especially in the 2009 campaign. One politician told supporters to boycott businesses owned by RDP supporters⁴⁶. In general, SWAPO’s responses to the RDP “were heavy handed and contributed to a climate of repression hitherto unknown, according to one

35 Ibid.

36 Ibid.

37 Placido Hilukilwa, “RDP Flag Burnt at Opoto,” *Namibian Sun*, March 8, 2014, <http://www.namibiansun.com/politics/rdp-flag-burnt-opoto.69832>.

38 Kuvee Kanguuehi, “RDP, SWAPO Nearly Clash,” *New Era*, May 12, 2008, <https://www.newera.com.na/2008/05/12/rdp-SWAPONearly-clash/>.

39 Miriam Hamutenya, RDP activist, July 27, 2016.

40 John Grobler, “SWAPO Not Used to Competition,” *Mail and Guardian*, April 3, 2008, <http://mg.co.za/article/2008-03-04-SWAPONot-used-to-competition>.

41 T. Lodge, “The Namibian Elections of 1999,” *Democratization* 8, no. 2 (June 2001): 196, doi:10.1080/714000205.

42 Ibid., 204.

43 Ibid., 202.

44 Ibid., 203.

45 Oswald Shivute, “SWAPO Advocates ‘Political Cleansing,’” *The Namibia*, August 14, 2008.

46 Brigitte Weidlich, “Boycott RDP Businesses: SWAPO,” *The Namibian*, February 25, 2008, <http://www.namibian.com.na/index.php?id=42772&page=archive-read>.

commentator⁴⁷. An opposition activist interviewed claimed that leaders were to blame for violence, as they incited otherwise peaceful people⁴⁸. This is not restricted to SWAPO, however: in 2008 and 2009, leaders of both RDP and SWAPO “ignored orderly conduct and used aggressive language bordering on hate speech”⁴⁹. Andimba Toivo Ya Toivo, a SWAPO struggle icon, even wrote a letter to a newspaper bemoaning the language used by his comrades during the course of by-elections in the central north and the capital city. He wrote, “Luckily, not a single soul was lost ... although it sometimes seemed that we were close to that, because of the speeches of some of our political leaders directed at the leaders and members of a new political party”⁵⁰. Still, Lodge notes that while “Mud-slinging between leaders may have helped to prompt rough behaviour among activists ... this might have happened even if the oratory from the podiums had been more circumspect”⁵¹.

1.4 Code of Conduct: an effective tool to prevent violence?

It has become common practice for parties to sign a code of conduct before elections, a document which commits parties and their supporters to a peaceful process. The most recent reincarnation of the document addresses both party supporters and leaders (see appendix). It states that “intimidation in any form, is impermissible” and bans political speakers from using incendiary language at rallies. It prohibits the disruption of rallies and destruction of other parties’ materials, and establishes a way of dealing with complaints.⁵² The code commits parties to promoting the contents of the document, and the Electoral Commission translated it into a variety of Namibian languages. It was signed by representatives of all major parties, and an officer of the ECN stressed in an interview that the commission works very hard to publicize its contents⁵³.

A political analyst interviewed in the course of this research indicated that the code “may have contributed to the low incidence of violence” in the recent election⁵⁴. Indeed, Lodge finds that the code of conduct is well known. However, he writes that “the passivity of the Election Commission in the face of repeated violations of its own electoral code represented a serious flaw in its management of this contest”⁵⁵. An official at the Commission interviewed for this study agreed, calling it a ‘gentleman’s agreement.’ The official said that the code of conduct “really lacks teeth, it does not prescribe specific punitive measures that could serve as a deterrent”⁵⁶. Thus, while the code of conduct represents a useful tool for education, it could serve an even stronger function if its prohibitions were matched with consequences.

1.5 “No-Go Zones”

A recurring issue around election time is the concept of a ‘no-go zone’. Voters of one party will often declare a certain area a ‘no-go zone’ for other parties. Sometimes, they might claim that a certain tree ‘belongs’ to their party, as they have in the past used it for hanging up posters – and will not allow other

47 Henning Melber, “Namibia’s National Assembly and Presidential Elections 2009: Did Democracy Win?,” *Journal of Contemporary African Studies* 28, no. 2 (April 2010): 205, doi:10.1080/02589001003736827.

48 Miriam Hamutenya, RDP activist.

49 Melber, “Namibia’s National Assembly and Presidential Elections 2009,” 205.

50 Bryan O’Linn, *Namibia: The Sacred Trust of Civilisation: Ideal and Reality*, vol. Volume II (Windhoek: Polination Publishers, 2010), 166.

51 Lodge, “The Namibian Elections of 1999,” 204.

52 Political Parties of Namibia, “Code of Conduct” (Electoral Commission of Namibia, 2014), <http://www.ecn.na/documents/27857/188025/code+of+conduct/4311d89e-8728-4c8f-95c8-5da28a193b77>.

53 Theo Mujoro, Electoral Commission of Namibia, April 8, 2016.

54 Political Analyst, July 25, 2016.

55 Lodge, “The Namibian Elections of 1999,” 228.

56 Theo Mujoro, Electoral Commission of Namibia.

parties to hang up materials on the tree⁵⁷. Disputes over election materials are frequently reported and are usually linked to this sort of dispute.

Of course, no-go zones are not officially sanctioned. However, it has also proved difficult to stop this sort of practice. In fact, it has been tacitly condoned. In the 2009 campaign, police told opposition activists that they had to stay away from certain areas and would not be allowed to hold their rallies there, essentially enforcing the no-go zones declared by parties in the first place⁵⁸.

1.6 Regional Patterns

When violence occurs, it is frequently – though not exclusively – concentrated in certain regional hotspots. As one would expect, sometimes tightly contested areas see more contentious engagement, such as the Epupa constituency during the last election⁵⁹. However, it is a particular feature of Namibian electoral violence that a lot of clashes occur in the central northern areas of the country – the area where elections are least competitive in terms of SWAPO's winning margins. As Lodge notes, out of the 22 cases of electoral violence noted in the two months leading up to the 1999 election, all but 2 occurred in the central north. In a conversation, a high-ranking official at the Electoral Commission also highlighted this region as a problem without being prompted about the regional nature of violence⁶⁰. A political expert interviewed also pointed to this region as a particular hotspot⁶¹. This is a paradox: while it makes sense that violence occurs especially in times when the ruling party seems to face a strong challenge, it is counterintuitive that it should occur in areas where its dominance is very secure.

Where does this pattern come from? It appears that violence is a response to a challenge where party supporters are not used to it. In some areas, SWAPO has faced virtually no competition as far back as supporters can remember. There is no history or experience of dealing with adversarial voices in the democratic arena. As Lodge notes, in 1999 "SWAPO electioneering seemed to be at its most aggressive in those regions in which sentiment in its favour had in the past been virtually total. Elsewhere, more evenly matched competition seemed to generate more relaxed electioneering"⁶².

Thus, the dominance of the ruling party seems to be to blame for this intolerance, as there is no precedent for opposition support. This means the political culture may well be different:

In the Ovambo regions where SWAPO enjoys its strongest following, and where its political authority during the liberation war was unchallenged, political conformity is coerced by activists. Whether the aggression directed at SWAPO's opponents and their supporters reflected broad communal consensus or whether it was responsible for sustaining and enforcing the apparently monolithic public support for SWAPO in its home regions is difficult to determine⁶³.

1.7 Perceptions of Violence

Afrobarometer survey results indicate that the threat of violence remains a concern for Namibians. In the last round, conducted just before the 2014 national election, 34 percent of Namibians said they personally feared violence or intimidation during election time. 23 percent said they thought voters were

57 High-ranking official, Electoral Commission of Namibia, January 8, 2016.

58 Henning Melber, *Understanding Namibia: The Trials of Independence* (London: Hurst Publishers, 2014), 48.

59 Political Analyst.

60 High-ranking official, Electoral Commission of Namibia.

61 Political Analyst.

62 Lodge, "The Namibian Elections of 1999," 207.

63 Ibid., 227.

“threatened with violence at the polls” at least sometimes, and only 31 percent said party competition never led to conflict⁶⁴. These numbers are lower than in other countries in the region, but they are surely not insignificant – about a third of the population are concerned about violence during elections. Even if actual incidents of voting occur a lot less frequently than feared by Namibians, the fact they have these fears matters, because “the fear of violence alone is sufficient to influence voting behaviour”⁶⁵.

The last round of Afrobarometer surveys shows a level of fear that is relatively low compared to past years. In 2012, the level of people who “personally fear becoming a victim of political intimidation or violence” at least “a little bit” stood slightly lower, at 36. When the same question was asked in 2008 the year in which the RDP was formed and caused such a stir – a staggering 65 percent of Namibians feared becoming victims of violence. This demonstrates once more the fluctuating nature of violence in Namibia – and indicates that it is far from a non-issue. Meanwhile, about half of the Namibian population thinks that party competition leads to conflict “often” or “always,” a proportion that has remained steady through the times. Afrobarometer data thus suggests Namibians are concerned about the issue of electoral violence.

4. Survey Results

The survey results are reported in the three broad areas identified by Bardall as subcategories of electoral violence. Because of the likely sampling bias, we cannot claim that the survey is representative for the Namibian population as a whole. Hence, this section refers throughout to “respondents” rather than “Namibians.” Still, the people who answered the questions showcase a fair degree of demographic diversity.

In terms of gender parity, 59 men and 79 women responded to the survey. Respondents hailed from 11 of Namibia’s 14 regions, with most coming from the central Khomas region (where Windhoek is situated) and the central northern regions (where half the population of the country resides, and from where many people migrate to Windhoek for jobs and education). The age distribution skewed very young partly as a reluctance of older people when asked to respond, according to the team carrying out the survey. But Namibia’s population itself is very young, so while the sample would be improved by more respondents from higher age brackets, it likely is more representative than it appears at first glance.

⁶⁴ Afrobarometer, “Country Data: Namibia” Round 6 (2014).

⁶⁵ Wallsworth, “Electoral Violence: An Empirical Examination of Existing Theories,” 5.

4.1 Physical Violence

RESPONDENT AGES

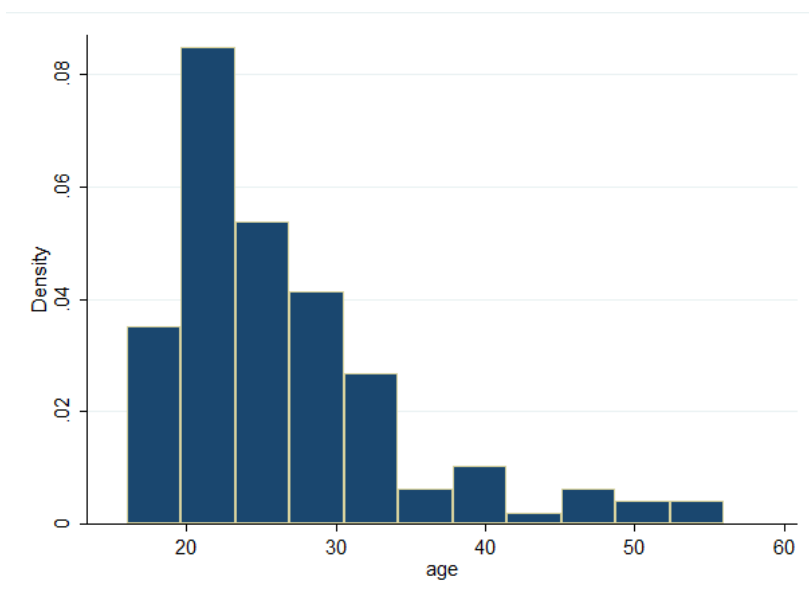


Figure 1: Age distribution of respondents

Survey respondents were certainly concerned about violence during election time. When asked “in this country, how often are voters threatened at the polls?”, a quarter of respondents reported threats occurring. However, respondents did seem to think threats were a relatively rare occasion: while 3 percent said threats “always” occurred, and two percent thought threats occurred “often”, 19 percent thought they occurred “sometimes”.

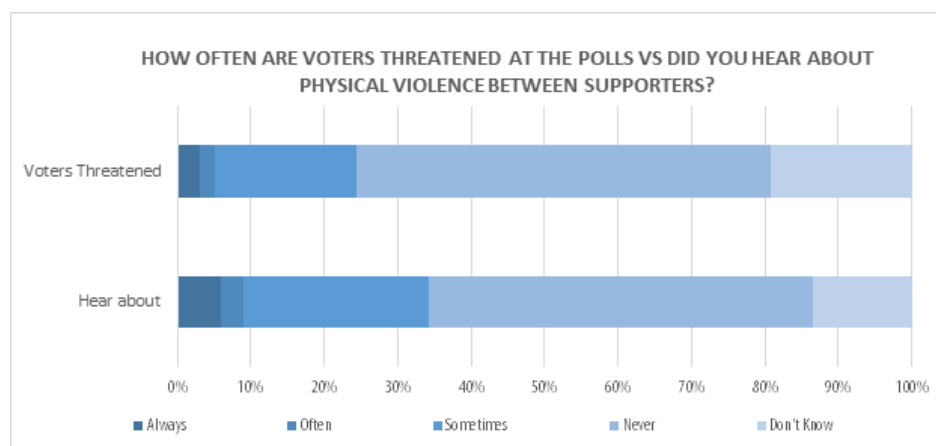


Figure 2: Respondent estimates of violence

While the above question sought to gauge voters' opinions about the rates of violence, the next one tried to find out about the political climate from a different angle, by asking whether voters had heard about physical violence between supporters of different parties. This measure is not more objective, as voters could be simply hearing rumours. But regardless of whether stories are made-up or truthful; if voters think violence occurs it is bound to shape their view of politics – and their behaviour. 34 percent of respondents said they had heard about physical violence “sometimes,” “often,” or “always” occurring.

On the above two (rather broad) questions on violence, respondents to the survey seem to be relatively close to Afrobarometer responses. In both cases, there is a significant minority that thinks of Namibian elections as a realm in which violence is a concern. A specific question about “no-go zones”, however, shows just how widespread the practice is. This time, only 21 percent of voters said that no-go zones never exist. 34 percent of respondents said no-go zones were sometimes established, 10 percent said they were often a concern, and 21 percent said that there were always no-go zones in elections.

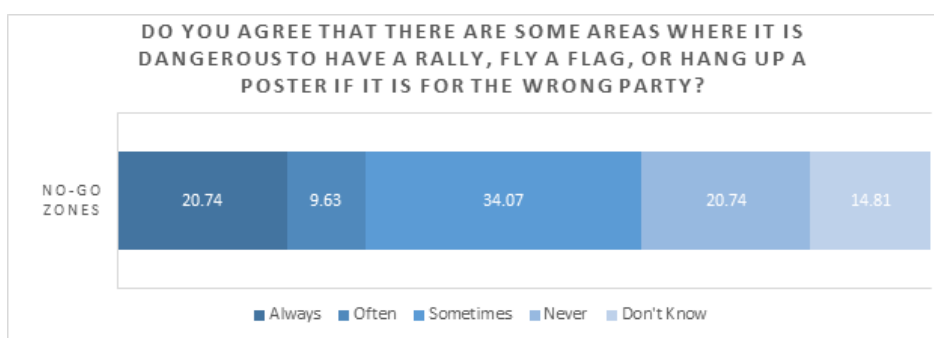


Figure 3: No-go zones

Whether no-go zones in themselves should be classified as violence is up to debate, but they are certainly linked to violence. Using the phraseology of the question, 65 percent of respondents said that “there are some areas where is *dangerous* to have a rally, fly a flag, or hang up a poster if it is for the wrong party”. Their assertion that there is danger attached to certain areas would imply that 65 percent of respondents would fear these no-go zones.

4.2 Economic Violence

An investigation of economic issues also shows that an expanded definition of electoral violence can yield new insights. When asked how often people “boycott a business owned by supporters of another party,” almost half of respondents reported this as happening. Almost 20 percent reported it happening as “often” or “always,” while 26 percent of respondents said it happened “sometimes”. Only 28 percent of respondents claimed that boycotts never occurred.

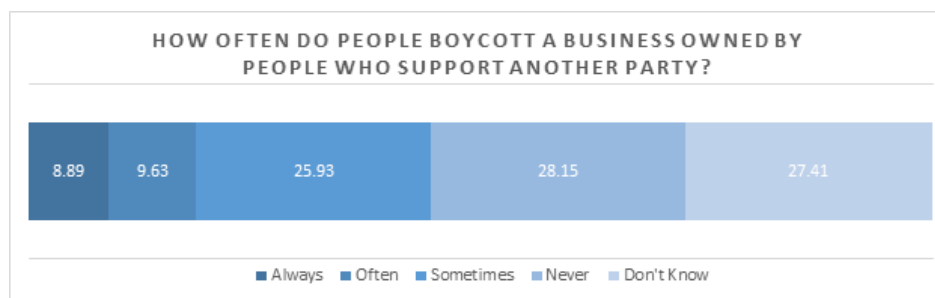


Figure 4: Business boycotts

To gauge economic pressure on voters directly, the survey also asked respondents whether they felt pressure from their employer to vote a certain way. The numbers answering in the affirmative were not large, which is encouraging. However, slightly more than 10 percent of respondents said they felt some pressure. In an exit poll conducted after the 1994 election, 6 percent of respondents had said they decided on a candidate because “my employer told me whom to vote for”⁶⁶.

4.3 Socio-Psychological Violence

The literature on gendered election violence has introduced hitherto unstudied and unmeasured forms of electoral violence, such as familial pressures and social shaming, as well as re-emphasised the importance of other non-physical forms of violence such as intimidation. Even if someone is not physically accosted, if they are made to fear violence because of the elections, it can affect their behaviour.

The survey showed that respondents were quite fearful: when asked “how much do you personally fear becoming a victim of political intimidation or violence”, 35 percent of respondents responded they were afraid at least a little bit. This is comparable to the findings of the last Afrobarometer survey (see above). Perhaps significantly, this question had one of the lowest rates of respondents answering “I don’t know.” Many other questions had responses in the range of 20 percent for this answer. This makes sense as many would not feel qualified to assess the levels of business boycotts, for example. But when it comes to their own fears, respondents were certain, and more than a third said they were afraid. Also of note is the regional distribution in answers. Respondents who said they lived in one of the so-called ‘4 O’ regions that comprise the central north were more fearful than respondents from outside those regions. While only a third of people in the rest of country said, they feared violence at least a little bit, almost half of respondents from the central north professed personally fearing violence.

⁶⁶ Heribert Weiland, “The 1994 Exit Poll Survey,” in *Elections in Namibia*, ed. Gerhard K H Töttemeyer, Arnold Wehmhörer, and Heribert Weiland (Windhoek: Gamsberg Macmillan Publishers, 1996), 168.

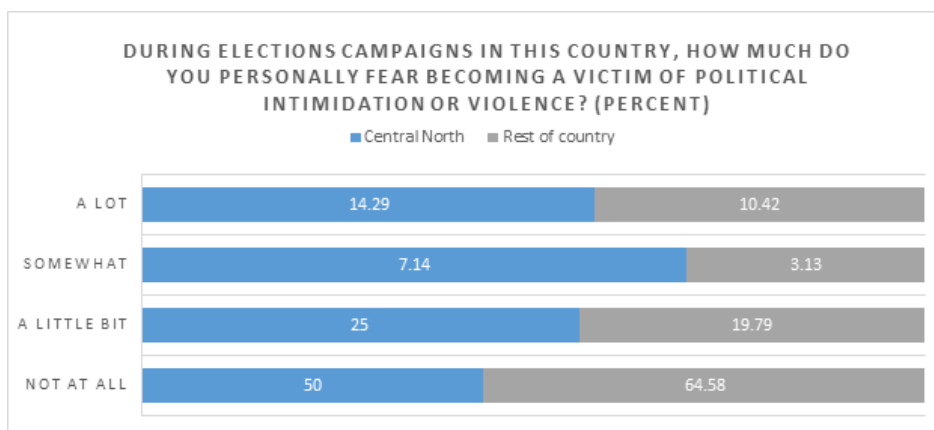


Figure 1: Regional concentration of fear

The survey asked respondents how much pressure they felt from their family and partners. At its most extreme, this sort of pressure can be a form of electoral violence. Asking directly whether respondents had faced spousal abuse, for example, would have infringed too much on respondents' privacy. Therefore, the question with this wording served as an imperfect proxy for measuring how free people feel to decide on their vote. Again, a significant minority of voters claimed to feel pressure. 18 percent of respondents said they felt at least "a little bit" of pressure from their partners, while just over 31 percent felt pressure from their families.

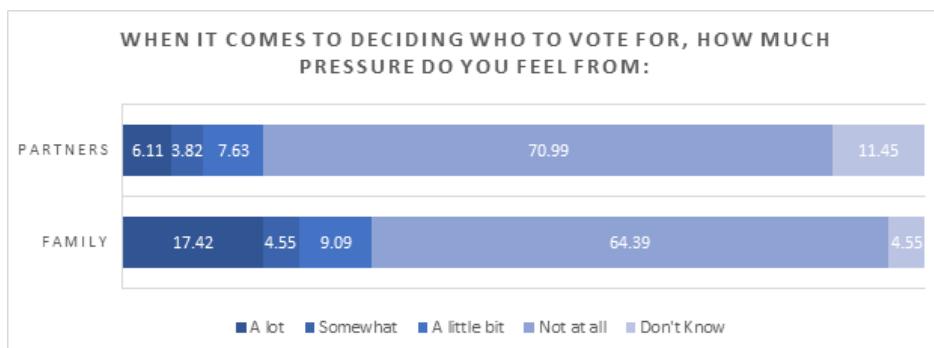


Figure 2: Pressure from partners and family

The survey sought to gauge the comfort of voters more directly, by asking them "how free are you to express your opinions?" and "how comfortable are you to tell others who you voted for?"; 37 percent of respondents said they were "not very comfortable" or "not at all" comfortable telling others who they voted for. This does not mean that they were intimidated, however: Namibia's election campaigns have long stressed that the vote should be secret, and this could simply be the expression of a neutral norm. It is more worrying that 25 percent of respondents indicated that they were "not very" or "not at all" comfortable expressing their opinions during election time.

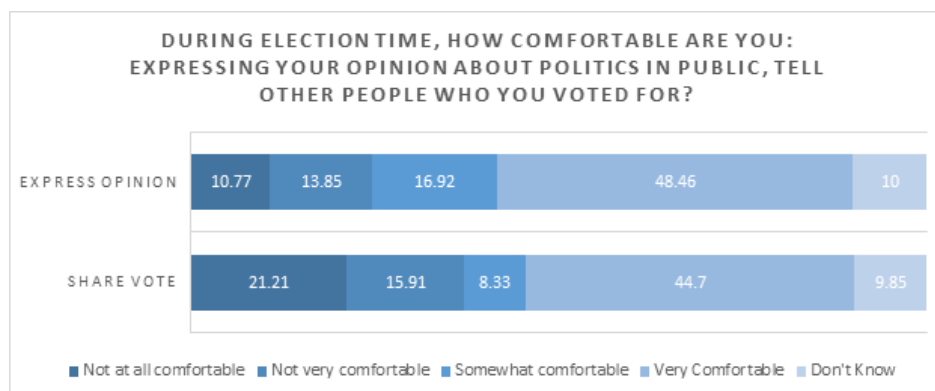


Figure 3: Levels of comfort in talking about politics

This result is similar to the one of the last question in this section, where respondents were asked directly how free they are to choose a vote without feeling pressure. 74 percent of respondents believed they are “completely free” to make a choice – 25 percent thought they were only “somewhat free,” or worse. 14 percent of respondents said they were “not at all free” or “not very free” to choose their candidate or party. Once more, a certain fraction of respondents felt that Namibian elections were not an entirely free space.

4.4 Gender Considerations

The literature indicates that there is good reason to believe that women are affected differently than men when it comes to electoral violence. In the survey conducted as part of this study, this holds true to a certain extent. On many questions, women and men answered in similar ways. Men and women reported hearing about similar levels of physical violence. They also perceived the change (or lack thereof) in levels of violence from election to election in similar ways. Men and women perceived the same levels of business boycotts, and experienced the same levels of pressure from their families. They also expressed the same levels of (dis)comfort in expressing their opinions during election time.

However, there was one striking difference. When asked how much they feared intimidation or violence, 14 percent of women said “a lot,” compared to 8 percent of men. Other levels of fear were comparable. This seems to accord with one of Bardall’s key findings, which is that women suffer more from social-psychological violence than men. This is supported by an opposition party activist, who argued that “I have seen among fellow women, particularly in my party ... when there are these intimidations and so forth, some of them become low. Some of them start playing low profile”⁶⁷. There is some reason to believe that women experience electoral violence differently than men in Namibia. This is worth further study.

Overall, however, it seemed that women and men felt they experienced violence at the same levels. There could be a variety of reasons for this. Perhaps the survey questions were not effective enough in pinpointing types of violence that are particularly gendered. This is possible, as direct queries on some issues identified in the literature were avoided as they would be too intrusive (e.g. domestic violence, sexual assault, and child abuse as tools of electoral violence). Questions that hint at gendered issues

⁶⁷ Miriam Hamutenya, RDP activist.

would be less effective than those that directly aim at them. In addition, perhaps a wider, random sample would have shown differences. This could be a result of the sampling bias discussed above.

The framework that informed the survey still led to interesting insights. An awareness of gender issues does not just affect our view of women, but of men too, and this study is no exception. The expanded list of acts of electoral violence has led to new insights about respondents' views and experiences. For example, Bardall notes familial pressure as an area where women might be especially affected, a "specific form of intimidation [which] disproportionately affects women" in the IFES database⁶⁸. While a specific threat to women did not appear to be the case among respondents, it is surely noteworthy that even men among interviewees felt they faced such a large degree of pressure. This example illustrates a broader point: by expanding the view of what electoral violence is, we were able to find that respondents were concerned about matters that had previously not been considered a problem in the literature on electoral violence in Namibia.

5. Conclusion and Recommendations

5.1 Conclusion

This paper sought to provide an overview of electoral violence in Namibia. The country enjoys a reputation as a tranquil nation, and its elections are usually regarded as peaceful affairs. Yet Afrobarometer survey results indicate that between a quarter and a third of the population fears becoming a victim of violence at election time. This is because, while rare, violence does occur in Namibia. Especially in times where it seems SWAPO's dominance will be challenged, tensions rise and clashes become more frequent. This seems to be especially true in the party's heartland in the central north, where there is less of a history of strong competition.

Apart from a desk review on past elections and interviews with key informants, this study attempted to gauge Namibians' current thoughts and experiences relating to electoral violence. To do so, a survey was conducted on 136 respondents. In drawing up the survey questions, we used an analytical framework used by Bardall in her study on gender and electoral violence. This typology classifies electoral violence as physical, economic, or social-psychological, and notes that women and men experience violence differently.

The results of the survey show that there is a significant minority of Namibians concerned about, or affected by, electoral violence. Namibians reported being fearful of being victimized, and confirmed that certain areas were dangerous 'no-go zones' during election time. They reported that businesses could face boycotts based on political affiliation, and reported feeling pressure from their family and partners when it came to making a choice about who to vote for. The survey should not be generalized to the Namibian population as a whole, seeing as it was conducted using a convenience sample. Nevertheless, it accords with what is known from other sources: electoral violence is not a major problem for most Namibians, but it is not a non-issue, either. Importantly, drawing on the work of Bardall and others, this study also expands the view of what forms electoral violence can take in Namibia. This expanded view should inform better prevention and enforcement initiatives, detailed below, to ensure Namibia lives up to its reputation of a peaceful democracy.

⁶⁸ Bardall, "Breaking the Mold: Understanding Gender and Electoral Violence," 8.

5.2 Recommendations

To ensure a further reduction of electoral violence, several steps should be taken. Most of these concerns strengthening systems already put in place by the Electoral Commission of Namibia, or expanding on the body's functions. Broadly, two areas need to be worked on. Firstly, more work should be done on understanding electoral violence in Namibia – where and in which forms it occurs, who perpetrates it, who is victimized, and so on. Secondly, while many Namibians see political competition as a non-violent activity, not all do; a variety of influential actors should help to ensure there are no exceptions to the attitude of nonviolence. Finally, where penalties do exist, they should be enforced – and perhaps rethought if their current form does not lend itself to the goal of reducing violence. All interventions require the support of a variety of actors; and thus the overriding recommendation is that any actions taken have to involve consultations with all stakeholders. Perhaps the Electoral Commission could chair a process aimed at eradicating violence entirely, taking into account the various concerns raised here and involving parties, voters, police, civil society and more.

Prevention: To Improve Data and Early Warning Systems and to Create a Culture of Healthy Competition

When it comes to prevention of electoral violence, it makes sense to strengthen the Electoral Commission's existing early warning system, the "electoral risk management tool", under which employees from around the country report signs of trouble to the head office. As the director of operations explained:

"Through that kind of arrangement, we, here at the head office ... have the capability of instantly detecting any hotspots that may occur, anywhere in the country, because we have this network of colleagues all over the country at all the polling stations, all the constituencies, in all the regions. If something happens, and something that could potentially grow, we are able to inform the inspector-general of the Namibian police here at the head office instantly. By communicating with the colleagues on the ground, they are able to make an assessment of the situation and they can immediately take appropriate measures to arrest any potential situation⁶⁹."

Currently, this system is somewhat informal. But if data were collected from the system, it could add valuable insights into electoral violence. This sort of data would allow a look also at incipient problems that are halted by interventions, giving a fuller picture of the types of violence in Namibia.

As noted above, the Electoral Commission does not collect data on incidents of electoral violence at the moment. This represents a missed opportunity. It would be relatively straightforward for the Commission to collect the information; as political parties already notify the commission when acts of violence occur. Currently, the Commission simply refers cases to the police, but it should not be too difficult to compile all reports (perhaps requesting further information from whoever referred the case) and make them available for study. A comprehensive overview of incidents of electoral violence would enable a more profound understanding of the factors which lead to violence in Namibia, and highlight areas of heightened risk. This would aid prevention efforts down the line.

A note of caution is necessary, however. As noted above, there is a risk when using incident-based data to draw up plans that only a narrow set of cases are studied, as these are the sorts of cases people presently

⁶⁹ Theo Mujoro, Electoral Commission of Namibia.

consider to be electoral violence. It is important that a gender-sensitive approach is used going forward at all stages: when educating party officials and the public what constitutes electoral violence, when compiling reports on incidents, when conducting research on risk factors and prevention strategies, and when implementing anti-electoral violence efforts.

It is true that parties are often not directly inciting their members to act violently. However, while parties may not always give the impetus for violence, they should do more to prevent it. Ultimately, many perpetrators likely think they are doing what they are doing on behalf of the party – because there is enough ambiguity (or contradiction) in the party's stance on violence that those inclined to violence can find statements to hide behind. Thus, clearer signals must be sent to all supporters. A key to achieving this objective is a redesigned code of conduct that actually includes enforcement mechanisms (see below). Overall, however, there is no simple way to get parties to be strict about denouncing violence and discouraging it at every turn – but consultations with parties could find ways of incentivizing them to act even better than they have so far.

Other influential actors should be engaged in the project seeking to influence citizens to act peacefully. When it comes to politics, traditional leaders still hold great sway, particularly in the rural areas in which violence seems to occur. Any efforts to prevent violence around election time must include these leaders, as a strong message from them could have a great impact in creating a culture where political competition is seen as a natural occurrence rather than a provocation. While the church has lost much of its prominence in the political arena in Namibia, having withdrawn from politics after the advent of independence, it still commands attention and respect in this deeply religious nation. The church has been reluctant to get involved in the fray, but a message of nonviolence is surely compatible with its teachings. Thus, anti-violence efforts should endeavour to secure the support of umbrella church organisations such as the Council of Churches in Namibia, which represents all major Christian denominations and claims to represent 1.5 million Namibians through its members.⁷⁰ Finally, any prevention efforts should seek the cooperation of the media. Daily newspapers and radio stations reach a large proportion of the population and could prove decisive in consolidating a nonviolent political culture.

Enforcement: To Strengthen the Code of Conduct and To Enforce Existing Provisions

Several informants bemoaned the lack of enforcement options, while stressing the code was important and well-drafted. Political parties should face actual penalties to discourage any harsh language at rallies. Otherwise, the official stance, which promotes nonviolence, too often conflicts with what is said by officials in the heat of the moment.

To be fair, the Electoral Act of 2014 does in theory provide punishments for parties that contravene the code of conduct. In fact, it allows the Commission to cancel the registration of a party for a variety of offences related to electoral violence. If a party “or any office-bearer or member thereof contravenes or fails to comply” with the Code of Conduct, the party may be deregistered.⁷¹ The Act mentions other punishable offences: if parties or their office-bearers and members act so as to endanger “public welfare or the peace and good order; contrary to the laws of Namibia ... so as to accept or advocate the use of force or violence as means of attaining its political objectives” the party may lose its official registration.⁷²

⁷⁰ Council of Churches in Namibia, “About Us,” accessed August 25, 2016, <http://www.ccnamibia.org/>.

⁷¹ The Government of Namibia, *Electoral Act*, 2014, sec. 152 (c).

⁷² *Ibid.*, sec. 152 (e).

Individuals are also covered. Any person who “makes use or threatens to make use of any violence,” threatens injury both bodily and psychologically, or “does or threatens to do anything to the disadvantage of” others to influence their voting decision can be fined up to N\$25,000 or imprisoned up to five years.⁷³

Paradoxically, it might strengthen enforcement to reduce some penalties. For example, if a SWAPO functionary utters an incitement to violence, the Commission might hesitate to deregister the party: for one, it is almost unthinkable to deregister the party sitting in government, and the pushback would be immense – but secondly, this would also deprive hundreds of thousands of Namibian voters of their legitimate choice. Cancelling a party’s registration should be reserved for extreme cases; there should be other punishments that can be pursued (such as a reduction in the state funding they receive, or the suspension of officials) and the severity of penalties should scale with the nature of the offence committed.

The measures outline above – gathering more information to understand electoral violence, which informs work on preventing electoral violence with stakeholders, and implementing efforts to make penalties effective as deterrence – prevent a first step in making sure electoral violence is eradicated completely. Namibia’s track record of relatively peaceful elections is an achievement that should not be dismissed, but more work remains. As this study has shown, while incidents of violence are not as widespread as in other countries, they are very real – and a significant number Namibians are genuinely concerned about violence. If people fear violence, this can affect their decisions; thus even the fear of violence undermines democracy. Namibia has maintained a relatively peaceful political climate around election time. With the right approach, violence could be virtually eradicated, but more work needs to be done.

⁷³ Ibid., 180.

Annexure

Annexure I: Typology of Electoral violence

This table is copied verbatim from Gabrielle Bardall, "Breaking the Mold: Understanding Gender and Electoral Violence," White Paper.

Category of Violence	Form of Electoral violence	Examples and Gendered Impacts	Common Perpetrators
Physical	State and/or Militia-sponsored Violence	Informal repression (Government covertly employs surrogate agencies, such as ethnic or religious militias, to attack supporters of opposition political parties or government critics), or direct state violence (killings, beatings, arbitrary arrests, use of torture and mistreatment by police and intelligence officials, destruction or appropriation of property, violent dispersion of protests, political manipulation and direct incitement and organization of ethnic violence). While both genders are victims of this, it presents particular barriers to women's engagement and political participation.	Police, Military/Paramilitary, Covert Government Actors (ethnic, religious or militia), National Intelligence Agencies
	Sexual Violence	Includes politically motivated rape as a tool of terror and intimidation, marital rape as a tool of repression, sexual harassment, assault and abuse with the objective of controlling, intimidating, humiliating and	Police, Military/Paramilitary, Family and Community Members, Political parties

Category of Violence	Form of Electoral violence	Examples and Gendered Impacts	Common Perpetrators
Economic	Exploitation of Internally Displaced People (IDP) and Refugees	May include prolonging IDP status, artificially conferring status, forcing movement, preventing refugee return or forcing refugee return to influence voter geography and registration; misuse/misdirection of aid resources, extortion. 80 percent of refugees and IDPs worldwide are composed of women and children; hence abuse of this population takes a particular toll.	Political Parties, State actors, Military or Paramilitary, Local Strong-Men
	Criminality and Impunity	Increased social disorder resulting from electoral crises impacts women in particular by heightening levels of insecurity and increasing the risk/preventing women from partaking in regular activities that may make them vulnerable to criminal attacks such as working in isolated fields, protecting merchandise in market ..	Criminal Elements
	Economic Coercion and Punishment	Economic harm, coercion or abuse comes in institutional as well as personal forms. It includes harm or threats to harm a business, termination or threat of termination of employment, or other threats or theft related to one's livelihood. In families or between spouses, it may include situations where one member or spouse partner intentionally denies access to financial resources to another to enforce dependency and coerce her or his electoral decisions and/or participation. May include theft, preventing a spouse from acquiring resources, forcibly limiting spouse's expenditure on essential goods, creating debts or spending a spouse's resources without her or his consent, preventing a spouse from seeking employment/education/assets, etc. Spousal economic harm disproportionately affects women.	Community, Family, State or Private Employers

Category of Violence	Form of Electoral violence	Examples and Gendered Impacts	Common Perpetrators
Social-Psychological	Psychological Intimidation	A widespread tool of political manipulation, and often associated with situations of power imbalance and control in household settings. Psychological/emotional abuse includes rejecting, degrading, terrorizing, isolating, corrupting/exploiting and denying emotional responsiveness in a sustained or repetitive manner. Some forms are most prevalent in the domestic context and may be sub-sets of domestic violence while others (such as terrorizing or degrading) may take place publically by public political actors.	Family and Community Members, Religious Leaders, Political Parties, State-Sponsored, all levels
	Social Sanctions and Punishment	Can include informal means of control (systematic ridicule, ostracism, shame, sarcasm, criticism, disapproval, exclusion, discrimination) and formal means of control (laws, statutes, regulations against deviant behavior). This disproportionately affects women.	Community, Family, Religious Leaders
	Familial Pressure	A specific form of intimidation, control or forced disenfranchisement, this may include spousal or parental pressure on who to support, refusal of permission to leave house to vote, refusal of relatives to watch children for women to vote. This disproportionately affects women.	Family and Community Members
	Child Abuse	"Any act or series of acts of commission or omission by a parent or other caregiver that results in harm, potential for harm, or threat of harm to a child" (CIDC) including neglect, physical abuse, psychological/emotion abuse and child sexual abuse; can occur in private or public. Considered electoral violence when they are employed to intimidate, politically control or disenfranchise a voting-age family member.	Family and Community Members
	Domestic Violence	Physical, emotional or sexual violence committed by an intimate partner in the home or in public; included as electoral violence when used for controlling electoral participation or disenfranchising. Forms include physical aggression (battering, hitting, kicking, biting, shoving, restraining, slapping, throwing objects), or threats thereof; sexual abuse; emotional abuse; controlling or domineering behavior; intimidation; stalking; passive/covert abuse (e.g., neglect); and economic deprivation. Nearly all cases of domestic violence cases worldwide are against women.	Family Members

Annexure II: Code of Conduct

From the Electoral Commission of Namibia Website, www.ecn.org.na



WE PLEDGE OUR COMMITMENT TO FREE AND FAIR ELECTIONS

CODE OF CONDUCT








1. Intimidation, in any form, is impermissible.
2. No weapon of any kind, including any traditional weapon, may be brought to any political rally, meeting, march or other demonstration.
3. Parties shall avoid holding rallies, meetings, marches or demonstrations physically close to one another during the same time of the day.
4. Parties shall refrain from utilising public address systems, either fixed or mobile between 21:00 and 07:00 hours and which could constitute a public nuisance.
5. Speakers at political rallies may not use language which incites violence in any form against any other person or group of persons. Parties will not issue pamphlets, newsletters or posters which contain materials which incite people to violence.
6. Party members and supporters will not disrupt other parties, rallies, meetings, marches or demonstrations.
7. Party members and supporters will not seek to obstruct other persons from attending the political rallies of other parties.
8. Party members and supporters will not disfigure or destroy political or campaign materials of other parties.
9. Party leaders will use their good offices to seek to ensure reasonable freedom of access by all political parties to








- potential voters, including those at farms and on state-owned properties, outside working hours..
10. Parties will establish lines of communication to one another at headquarters, regional and local levels, and will appoint liaison personnel who will be constantly on call to deal with any problems that may arise.
11. The Chief Electoral Officer will meet party representatives on a weekly basis to discuss all matters of concern related to the election campaign and the election itself. Emergency meetings, will be convened as and when necessary.
12. Designated members will attend their parties' rallies to ensure compliance with this Code.
13. All allegations of intimidation and other unlawful conduct in the election campaign will be brought to the attention of the Police and to the attention of the Electoral Commission of Namibia at the places where they are alleged to have occurred.
14. Party leaders will issue directives to their members and supporters to observe this Code of Conduct, and take all other necessary steps to ensure compliance.
15. The Electoral Commission of Namibia and party leaders undertake to publicise this Code of Conduct throughout Namibia by all means at their disposal.
16. Parties will in their advertising and propaganda efforts take care not to disfigure the environment.






South Africa

Author : Dimpho Motsamai



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Conclusions

Recommendations

Introduction - background

Competitive elections have become the most critical events in the allocation of power in Southern Africa. The region's electoral processes have become a paradoxical mix of participation, exclusion and violence.¹ The nature of a political system, the overarching political and security context and the distinction between internal and external structural factors all determine a country's propensity and vulnerability to election related security threats. Various research on the links between elections and conflict in the Southern African region has identified some of these key trends.² The first trend is that electoral violence may arise at any point during the electoral cycle. Therefore, election management bodies and relevant agencies ought to make concerted efforts to entrench a culture of peace throughout the electoral cycle, institutionalise early warning and response tools for managing electoral conflicts throughout the electoral cycle. Secondly, the requirement for conflict prevention necessitates thorough recognition of the types, manifestations, and causes of election-related violence in a way that informs the strategic design of conflict prevention and management programmes across the board. Thirdly, conflict prevention activities should also be woven into each stage of the electoral cycle, as should the careful assessment and tracking of violent incidents. The continuum of various phases of the electoral process provides viable entry points which could allow for early interventions to obviate, resolve, or mitigate conflicts. The electoral cycle approach focuses on consistent and continuous conflict mapping, monitoring and networking and training and building the capacity of key election stakeholders and civil society components. In some cases, the management of elections and subsequent violent outcomes indicate the absence of a democratic culture and dislocations in the broader structures of governance, including the equitable provision of socio-economic dividends, which often results in exclusion and inequality and may sow the seeds of tensions. In these instances, elections per se do not cause violence. Rather, the process of political competition exacerbates existing tensions exposing structural disparities and inequalities, which stimulate the escalation of tensions into violence.³

Some of these issues are at play in South African elections, although the study of election related violence in South Africa is not a conventional one compared to its neighbours, for instance Zambia and Malawi. This is mainly because the management of its elections has not been fraught with deficiencies that heavily stimulate discontent and confrontation from election stakeholders. For instance, a key element in electoral management and public confidence is the extent to which there is trust in government institutions and the governance systems that manage them. South Africa's electoral institutions, including the Independent Electoral Commission, (IEC) that manages the country's elections, have been made more robust with strong checks and balances over the years. So while elections in South Africa are conducted in a tense political and social environment, they have not witnessed significant and protracted election related violence solely owing to their management. Rather, the stimulus of violence related to elections appears to be underlying social, political and economic cleavages or tensions that flare up during electoral periods. South Africa therefore presents a peculiar case for the study of election related violence in the Southern African region for five main reasons. Firstly, while cases of election related violence have been reported in certain parts of South Africa in recent years, they have generally been on

1 See Motsamai, D, 2010. 'When Elections Become a Curse: Redressing Electoral Violence in Africa', EISA Policy Brief No. 1, Electoral Institute for Sustainable Democracy in Africa: Johannesburg

2 These include: EISA, 2009, When Elephants fight: Preventing and Resolving Election related conflicts in Africa; Matlosa, 2005, Democratization at the Crossroads Challenges for the SADC Principles and Guidelines Governing Democratic Elections, ISS Paper 118; Zimbabwe Election Support Network, A critique of SADC Principles and Guidelines Governing Democratic Elections and Election Observation missions; Matlosa 2004, Managing Democracy: A Review of SADC Principles and Guidelines Governing Democratic Elections; Dzinesa, G. and Zambara, W. 2012, SADC's role in Zimbabwe: Guarantor of deadlock or democracy?

3 As quoted in Motsamai, D, 2010. 'When Elections Become a Curse: Redressing Electoral Violence in Africa', EISA Policy Brief No. 1, p. 7

the decrease in successive elections since the onset of democracy in 1994 (IDASA, 2009). Secondly, what emerges from past research is that electoral periods generally trigger high levels of intolerance and political tensions. Indeed, various political constituencies use elections as a national platform to air a wide set of grievances, which contributes to this, dynamic.⁴ Thirdly, distinct patterns of election-related violence illustrate the upsurge of clashes between supporters of rival political parties and communities –albeit to varying degrees within an electoral cycle. However, incidents have, at best, been described as sporadic, rather than widespread and systemic.

According to the Institute for Security Studies (ISS) public violence monitoring project, which recorded incidents from the 2014 national elections, there were 76 incidents recorded during the electoral period. Of these, two-thirds turned violent. Half of the recorded incidents took place in metropolitan areas, 29% in rural areas and 20% in small towns. The fourth factor regards the geographic spread of violent incidents: Gauteng (29%) and the Western Cape (21%) experienced the highest number of election-related incidents, followed by the Eastern Cape (16%), KwaZulu-Natal (11%), Limpopo (8%) and North West Province (7%). Lastly, while violence has not been widespread enough to have a significant bearing on the legitimacy and outcome of elections, there are concerns that it has in the past. Indeed, local-level political violence has consistently manifested in certain provinces, mostly in KwaZulu-Natal, involving local communities, politicians and government officials. These incidents also suggest that inter and intra-party competition is mostly fierce at the local level and subject to increase. This was most marked in the county's fifth local government election since the end of apartheid in 2016, where opposition parties successfully challenged the ANC's dominance. Service delivery protests increased in the build-up to these elections. While this may have been anticipated, there were increased reports of intra party violence especially from the ANC. According to EISA's Election Observer Mission Report to the 2016 elections, political assassinations owing to party factionalism were on the rise during the pre-election period. Approximately 20 cases of alleged political assassinations of mostly ANC candidates were reported in KwaZulu-Natal and Eastern Cape provinces during the election campaign. Factionalism induced violence was not limited to prospective electoral candidates; the electorate has been affected as well. A case in point concerns the deadly riots in Tshwane Pretoria two months before the elections where ANC supporters rioted in protest over the selection of ANC mayoral candidates.⁵ Increased intra-party competition as illustrated by these events comes at the heels of declining popularity of the ruling ANC government, which has been hit by a string of corruption and governance scandals involving the country's president Jacob Zuma. Several are noteworthy between 2016 to date including the alleged abuse of state resources by the country's ruling elites – referred to as domestic 'state capture' under the Zuma administration, ubiquitous corruption and nepotism in the public service.⁶ Also increasingly apparent is the perceived failure by the ruling party to separate party politics from government administration. This perception is so rife to the extent that it has sowed division within the ANC over President Zuma's fitness to hold office. Party politics have nonetheless taken precedence over public administration and President Zuma remains at the helm of both the ruling party and the country.⁷

The months following the local government elections have also witnessed polarizing debates about the

4 See L. Lancaster, Getting to the bottom of what really drives public violence in South Africa, February 7 2014, At <https://www.issafrica.org/iss-today/getting-to-the-bottom-of-what-really-drives-public-violence-in-south-africa> (last accessed August 14, 2015)

5 As discussed in the EISA Election Observer Mission Report to South Africa's Local government Elections, 3 August, 2016, p26

6 See J. February, Zuma versus Gordhan: the stakes have never been higher 1 March 2016, at <https://www.issafrica.org/iss-today/zuma-versus-gordhan-the-stakes-have-never-been-higher> L. Tracey, Corruption at the highest level: will the ANC maintain voter confidence? 11 April 2016, at <https://issafrica.org/crimehub/news/corruption-at-the-highest-level-will-the-anc-maintain-voter-confidence>

7 See, findings of the state of Capture Report discussed in What the "State Capture" report tells us about Zuma, the Guptas, and corruption in South Africa, at <http://qz.com/825789/state-capture-jacob-zuma-the-guptas-and-corruption-in-south-africa/>

ability of the ANC government to promote equitable development against the backdrop of lingering legacies of apartheid, especially issues around race relations, addressing inequality, poverty and socio-economic fragmentation. Even as South African policymakers have invoked the necessity of building a developmental state along the lines of Southeast Asian countries, serious questions have been raised about state capacity and effectiveness owing to an unprepared civil service and policy incoherence from the ruling party. The current political trajectory can best be summed up by dated reports such as the 2007 APRM, which stated that despite the great progress the country made after the elections 1994, “South Africa remains a country of imbalances, disparities, distortions and a number of paradoxes.” This has stoked constant public discontent in the last year or two, demonstrated by an increase in service delivery demonstrations and anti Zuma protests.⁸ The probability of increased as civil strife, vigorous and even violent political competition in the build-up to the next elections in 2019 cannot be ruled out.

Electoral commissions of course play a vital role in electoral governance and administration, including in dispute resolution and electoral conflict management. The IEC for instance, has various mechanisms for addressing conflict events at national, provincial and local levels. Whether existing vehicles for consultation and co-operation work efficiently is debatable. This report documents and analyses patterns of election related violence in South Africa broadly, at local and national levels. It confines itself to the two general elections in 2009, 2014, and the 2011 local elections. The latter will aim to provide early warning indicators to preventing violent upsurges ahead of the 2019 national elections. As per the overall terms of reference for the research, this report is divided into five sections. The first discusses the context and drivers of electoral violence in South Africa. The second maps out the frequency and geographic spread of election related violence. The third section provides an analysis of the country’s electoral administration and the legal institutional mechanisms in place for addressing electoral violence. The fourth part of the report highlights some of the key factors necessary for preventing election related violence and strengthening early warning mechanisms in this regard. The final section is a synthesis of the chapters’ conclusion. It also recommends possible ways future incidents of electoral violence could be mitigated and managed.

Section I - Context and Drivers of Electoral Violence in South Africa

Electoral violence generally relates to ‘all forms of organized acts or threats – physical, psychological, and structural– aimed at intimidating, harming, blackmailing a political stakeholder before, during and after an election with a view to determining, delaying, or otherwise influencing an electoral process.’⁹ This definition sees electoral violence as multidimensional, having physical, psychological and structural dimensions. It also implies that electoral violence is part and parcel of political conflict or political violence –whereas the objective of electoral violence is to influence the electoral process and its outcome. Violence or particular forms of social expression are embedded in a country’s political past and contemporary context.

Since the end of apartheid in 1994, South Africa has undergone sweeping political, social and economic transformation. The democratically elected ANC government, which remains the ruling party, embarked on an extensive program of political and economic liberalization. The election of the country’s first post

8 As discussed in J Cilliers and C Aucoin, Economics, governance and instability in South Africa, ISS Paper 293, June 2016, p. 15 at <https://issafrica.s3.amazonaws.com/site/uploads/Paper293.pdf>

9 Albert, Isaac O. 2007. Re-conceptualizing electoral violence in Nigeria. In: Albert, I.O., D. Marco and V. Adetula eds. Perspectives on the 2003 elections in Nigeria. Abuja, IDASA and Sterling-Holding Publishers. p. 133

racial governing party, the ANC and its president Nelson Mandela in 1994 set in motion a comprehensive but inconclusive process of social, economic and political re-engineering. For instance, the former 10 separate homelands for black South Africans were reintegrated into the country. South Africa as a state was then divided into 9 provinces, each with elected representatives at local, provincial and national levels.¹⁰ What had been a centralized, racially determined state with limited franchise adopted universal franchise and a semi-federal model. Political, economic and social rights were extended to all citizens through a progressive Bill of Rights. Concerted efforts were made to alleviate extreme poverty and advance the interests of the majority black population. These included a range of successive initiatives, as the Reconstruction and Development Programme (RDP), which arguably remains the largest and most expansive programme of social grants to the poor in the country's history. More recently, with the country's third administration under President Zuma, the government sought to implement the National Development Plan (NDP) to stimulate growth, development and poverty alleviation. The positive results of 23 years of democracy include an increase in political participation and relative participation of the population in the country's economy. International competitiveness, trade and inward bound investments stimulated internal capacities for state performance.

In the second decade since its successful transition to a multiracial democracy, South Africa under the leadership of former President Thabo Mbeki approached the 2000s with the optimism that was captured in the notion of 'the African Renaissance'. It was also premised on building strong state institutions and a constitutional order that promoted human rights and the rule of law. To date, South Africa's democratic consolidation continues to revolve around the efforts of the ANC to broaden participation and build legitimacy through a democratic dividend. The elections of 2004 boosted the ANC's unrivalled electoral mandate and permitted Mbeki's consolidation of power.¹¹ Nonetheless, Mbeki's ouster in a party convention in December 2007 and the subsequent election of Jacob Zuma to the presidency in the 2009 signalled the emergence of intra-ANC factional conflicts that has had an enduring bearing on its leadership and the country's institutions as well. In his first term, Zuma managed to hold factional conflicts at bay. But the difficulties of managing political and socioeconomic fragmentation have, in part, occasioned the creeping erosion of some of the foundations of post-apartheid democratic experiment and the strength of the party itself.¹²

At the back of these politics is how power is alternated and the degree to which fragmentation spill to the elections domain. The relationship between electoral systems and government stability throughout the three administrations is important. Elections, security and stability have assumed greater legal, institutional and administrative attention from the South African government over the years. The country's 1996 post-apartheid Constitution, among others, provides the foundations of South Africa's electoral system. The system is based on a two-tier compensatory model of proportional representation based on party lists. The national legislation prescribes the electoral system, which is based on the national common voters' roll. It sets a minimum voting age of 18 years and presents results in proportional representation.¹³ In 1998, the country's Electoral Act (Act No. 73 of 1998) was enacted to regulate the election of representatives to the National Assembly and provincial legislatures. Schedules 1A and 3 to the Act provide the details of the prevailing electoral system, which is consistent with the constitutional principles that must underpin such a system. Accordingly, the Act accentuates

10 J. Cilliers, *South African Futures 2035 Can Bafana Bafana still score?* ISS Paper 282, Institute for Security Studies, Pretoria, South Africa, 2015.

11 Laurence Piper, *South Africa's 2004 Elections: The Quest for Democratic Consolidation*, EISA, Johannesburg, South Africa, 2004.

12 Broad concerns are reflected in "Sad South Africa: Cry, the Beloved Country," *The Economist*, October 20, 2012; "Mbeki Blasts Zuma's Leadership," *The Sunday Independent*, October 21, 2012.

13 Independent Electoral Commission of South Africa, *National and Provincial Elections Report 2014*, p.6

the Constitution's guarantees, which include the political rights of citizens contemplated in section 19 of the Constitution.¹⁴ The Act regulates the following key aspects:

- The compilation of the voters' roll and its publication;
- The registration and deregistration of voters;
- The proclamation of and preparation for elections;
- Requirements for contesting elections and objections to potential candidates;
- The voting process, including vote counting, objections, determination and declaration of election results;
- Voting districts, voting stations and voting material;
- The appointment of voting officers, party agents and observers; and
- The electoral Code of Conduct and prohibited conduct.

The organisation and conduct of credible elections demands adherence to certain rules, principles and rights, which in practice can pose challenges to ensuring effective good electoral governance and security. These include, but are not limited to:

- Transparency and accountability: this requires that elections are held in full compliance with national laws and that all steps to an electoral process are well communicated and publicized. It also refers to enhancing consultative mechanisms with political groups, civil society, and other organisations to ensure that all processes are well communicated and understood.
- Freedom of speech and association: it includes the freedom to engage in political activity at will and to freely express opinions on political issues.
- Impartiality and non-partisanship: institutions responsible for electoral administration and security must fulfil their mandates impartially and must avoid allegations of partisan bias.
- Inclusivity: this requires an appropriate electoral system and the inclusion and participation of all groups in the political process
- National Ownership: this is premised on the notion that elections are a sovereign process and their management should –in reality and perception, be in full compliance with national laws and regulation. The security of an election should also fall within the ownership and control of a national authority to reflect this ownership. The exceptions are post conflict or transitional elections.

South Africa adopted an electoral system to provide the best consistency with its democracy and pluralism through the Proportional Representation (PR) system. The first-past-the post (FPTP) and PR are the most dominant electoral models in the Southern Africa region. The PR was adopted to meet the imperatives of accommodation, reconciliation, and inclusiveness to fit with the post-apartheid inclusive dispensation. Under the PR system, candidates contest elections on behalf of a party, while voters elect political parties. The number of seats a party wins is proportional to its electoral strength. Although the PR system has been lauded for fostering minority representation, critics have charged that the system encourages the proliferation of minority parties that prevents the evolution of a strong and coherent opposition. In addition, unlike the constituency-based system, the PR system lacks accountability, alienates voters from their elected representatives, and makes parliamentarians vulnerable to whims of party leaders. Partly because of these criticisms, there have been calls for reforming the country's electoral model – with some suggesting a hybrid model such as Lesotho's Mixed Member proportional (MMP), where some candidates are directly elected and the parties nominates the rest.¹⁵ Needless to say

¹⁴ As above.

¹⁵ For criticisms of the PR system see, Susan Booysen, "The Political Environment of Election 2009: Democracy and Contestation," in Election Update South Africa: February-July 2009. Auckland Park, Johannesburg: EISA, 2010, pp. 8-12.

the MMP model is not without its fair share of problems, as illustrated by the frequent haemorrhaging of Lesotho's governing coalitions.

As with all nascent democracies, political development, participation and socio-economic transformation are a work-in-progress in South Africa. Unequal relations of power were inherited from the past and there has not been a complete clean and lasting break with those societal imbalances. Secondly, institutional compliance with the policies introduced by the new democratic order is lacking. Those charged with promoting and facilitating participatory democracy failed to cater adequately for the greater populace, or to appreciate the various tools, methods, skills and expertise necessary to include everyone in the structures and institutional arrangements that were set up. Voter turnout and trends in voter apathy help paint the picture of political development and participation throughout the years. In 2004 and 2009 South Africa's parliamentary elections, the voter turnout averaged 76%. High voter turnouts in South Africa have also been correlated with trust in the IEC. PR systems traditionally witness high levels of voter turnout than FPTP, although discernible declines can happen in both systems. Voter apathy is ultimately an outcome of distrust of electoral processes and outcomes. Distrust is deepened by the perceived absence of viable political alternatives. Thus, in the majority of Southern African countries with dominant party systems, political disinterest and disillusionment arises from perceptions of exclusion and institutional marginalization owing from the electoral model. The combination of presidential systems and dominant parties often stimulates complacency and insularity that ignite mass cynicism toward political actors and even elections themselves.

As South Africa's constitutional democracy has progressed remarkably during the last 23 years, it has been argued that the country made an incomplete transition to inclusive politics and an incomplete transition towards inclusive economic participation. In 2007, the APRM report on South Africa stated that despite the great progress the country made after the elections 1994, it remained 'a country of imbalances, disparities, distortions and a number of paradoxes', citing the most prominent of these as the persistence of large-scale poverty, high levels of inequality, high crime rates, and a dualistic economic and social structure.¹⁶ There also has been growing domestic criticism of the government in the last two elective terms, high unemployment, and corruption, low quality of social services, standards of living in the areas of education, labour, health, crime reduction and infrastructure among others. The ANC, as a post liberation party in government has confronted significant obstacles in adapting to the demands of competitive politics, internally and in nationally. It has over the decades maintained strong links to state institutions, and opposition parties have faced hurdles in gaining political traction. While splinter groups emerged in some parties, such divisions barely dented its hegemonic control until more recently. In dominant party states like South Africa, democratic governance regressed because of the weakening of the effectiveness of institutional checks and balances. For instance, South Africa's National Assembly also evolved with strong bi-partisan committees but its oversight functions have dwindled because of interference by ANC party institutions. This coincided with declining government or bureaucratic efficiencies, growing societal tensions over resources, inadequate social service systems, the reliability and integrity of the government system, and socio-economic infrastructure to develop appropriate and effective responses. The status quo has increasingly been challenged in parliament by a strong rebuff from the country's main opposition parties, the Democratic Alliance (DA) and the Economic Freedom Fighters (EFF). A variety of political and social risks owing to these factors are therefore pervasive through the country's electoral cycle.

¹⁶ APRM Secretariat, Country Review Report no. 4: Republic of South Africa, Midrand: APRM, November 2006.

South Africa in the past was rated by local and international agencies including the World Bank (2015), the Economic Commission for Africa's Economic Outlook (2014), Freedom House (2014), and the Institute of Risk Management South Africa (2015) as medium-risk in terms of political stability and security. The common variables used were: rule of law, political rights, social stability, economic development and growth. Risks oscillate periodically and can be triggered by political events. A prevailing status quo of violence is generic throughout the country and one of the most serious challenges facing South Africa at present. Violence, submerged for most of the time between 1994 and 2015. It remains part of the unacknowledged political culture of South Africa. The generalized culture of violence in South African society closely correlates with the degree of political and social stability in the country and the propensity for election related violence.

There have been periods of protracted and sporadic violent protests in between the past two electoral cycles (2009 and 2014). According to the South African Police Services (SAPS) Incident Registration Information System (IRIS), a total of 12399 crowd-related events (34 incidents a day, on average) happened between April 2012 and March 2013. Most of these started as public gatherings that had obtained official permission from the police as per the Regulation of Gatherings Act 205 of 1993.¹⁷ However, as many as 1882 (15%) of these gatherings turned violent, resulting in 3680 arrests. An average of five violent public incidents took place each day in that year. This represents a 54% increase from the previous year, when 1226 incidents were recorded. Arguably, there have been repeated cycles of violence with certain communities. Indeed, public protest is a permanent feature of the South African socio-political landscape as evidenced by SAPS data on incidents dealt with by its Public Order Police (POP) unit from 2001 to 2013.

Figure 1: SAPS data on incidents dealt with POP, 2001 -2013

Year	Peaceful marches/ gatherings	Unrest marches/ gatherings	Total incidents
2001-2002	6840	569	7409
2002-2003	6347	578	6925
2003-2004	7568	550	8118
2004-2005	7382	622	8004
2005-2006	9809	954	10763
2006-2007	8703	743	9446
2007-2008	6431	705	7136
2008-2009	6125	718	6843
2009-2010	7913	994	8907
2010-2011	11680	971	12651
2011-2012	10744	1194	11938
2012-2013	10517	1882	12399

Source: M Marks and D Bruce 2015, as cited from Bruce, G Newham and T Masuku (2007:30); Alexander (2012) South African Police Services 2012, 2013)

¹⁷ The Act can be accessed at https://www.parliament.gov.za/storage/app/media/Docs/acts/87760_1.pdf

Young South Africans have been identified as key instigators of public violence and protests particularly during electoral periods. The drivers of violence are yet to be substantively qualified. But existing research suggests socio-economic marginalisation as a foremost grievance and violence driver. In South Africa, young people who are officially categorised between ages 15 and 34 by the country's Statistics agency, account for around 19.7 million (55 percent) of South Africa's working-age population. The unemployment rate within this category is between 35-37 percent. Research conducted by the ISS in 2014 to understand the factors that influence the voting behaviour of young South Africans, identified unemployment and education as two of the top ten challenges facing young people. Increasingly high levels of youth unemployment and a dysfunctional public education system are key drivers of the challenges faced by young South Africans. According to the 2014 World Economic Forum Global Risk Report, South Africa is ranked as the country with the third highest unemployment rate in the world. As many as 50 percent of young people between the ages of 15 and 24 are unemployed.¹⁸ Poor education standards at both primary and secondary level, along with high dropout rates are contributing to the level of youth unemployment and the inefficiency of the labour market.¹⁹ Between 2015 and 2016 the frustration and anger felt by many young South Africans culminated in a number of protest movements including those around free higher education, racial transformation in public institutions and frustrations regarding persistent socio-economic inequalities and poor living standards.

This suggests that the root cause of youth induced violence is a confluence of factors including structural unemployment, underemployment, frustration with poor service delivery and inadequate responsiveness from government at all levels. These boils over into displays of public violence, which the report has to highlight, could also be exploited by criminal elements. For instance, youth led demonstrations could turn violent because of other sections within or even outside the demonstrating groups to exploit public gathering for their criminal adventures. Nonetheless, factors driving public protests can be placed into three broad categories: systemic (maladministration, fraud, nepotism and corruption in service delivery); structural (healthcare, unemployment, and land issues); and governance (weak leadership and the erosion of public confidence in the ruling leadership).

As discussed in the background section, the run-up to the national elections in 2009 and 2014 saw a notable increase in protests, strikes and election violence. The 2016 local government elections were also marred with violence in the pre-election phase. In South Africa, local elections have been held since 1994 and have become more competitive in recent years, despite the incumbency of the ANC. In the local government elections of May 2011, the overall turnout was 58 percent, with some municipalities having 70 percent; even where local residents had complained bitterly about poor service delivery and corruption. ANC representatives were re-elected with large majorities. Despite the ANC's win, the main opposition party the DA made significant inroads in some local councils. The share of votes going to the DA rose by 50 percent nationally – from 16 percent to 24, including a threefold increase in DA share of the black vote. This is important for understanding party constituencies and their power bases, and when one interrogates the role of political parties, party behaviour and leadership during electoral contests, and how this influences patterns of violence. The ideologies and messages of parties can galvanize actions that may have violent interpretations and outcomes.

18 See World Economic Forum, Global Risks Report 2014, at <http://www.weforum.org/reports/global-risks-2014-report>

19 In 2013, a report published by the Centre for Development and Enterprise on South Africa's Education Crisis stated that 'of 100 pupils that start school, only 50 will make it to Grade 12, 40 will pass, and only 12 will qualify for university.' The state of education contributes significantly to the economic disadvantage that undermines the future of youth in the country.

The issue of prevention is thus challenging. A large part of the problem at a technical level is understanding the management side of election related violence and what effective election security means. This has posed a challenge for the government, especially on conceptualising the phenomenon and building comprehensive mitigation strategies. For instance, security analyses need to appreciate the complex set of interdependent sub-processes inherent in both the socio-political context and the electoral processes. Electoral violence is a sub-category of political violence, which deserves special consideration from the policy community. Violence can be taken as a serious indicator to analyse where exactly development policies fail. More research on socioeconomic and political consequences of violence is required from government institutions. The understanding of the complex drivers of political and public violence surrounding electoral periods is critical to allow for the early identification of triggers and trends. This enables all players, including state organs, to design multi-faceted appropriate responses to better manage, if not prevent, incidents. This is an area the South African government is yet to give sufficient attention.

Section II - The Frequency and Geographical Spread of Election Related Violence

The quality of an election, regards its propensity to be violence free, is quite difficult to assess given the uniqueness of each electoral event especially in a country whose politics are multifaceted, like South Africa. The following criteria might serve as a guideline for elections that are generally acceptable in terms of democratic quality and security from international standards:

- Peaceful pre-election, Election Day and post-election processes;
- Fair electoral procedures and processes that are also transparent;
- Freedom to recruit members, participate, campaign, or undertake other party political activities in line with electoral laws and the country's Constitution;
- Respect for the rule of law, media freedom and fair media coverage of all parties;
- Tolerance of political or divergent views and freedom of assembly; the right to march and protest by all candidates of political parties and their members; and to campaign freely without hindrance in all constituencies or localities of a country;
- The full application or implementation of constitutional or international instruments.

An election is vulnerable to a range of security threats and public protests are one of the main features of such vulnerabilities during elections. But the manifestations are not linear. In other words, in South Africa, elections can trigger protests and protests can trigger and fuel election-related disputes and conflicts. Some of the protests in South Africa have been observed as signalling the erosion of public trust in the state where elections themselves become the pinnacle of such expression. This may explain past trends in election related violence. A review of the 2014 elections is noteworthy. In the build-up to elections, political campaigns were marred by reports of intimidation and violence. At the time, community protests targeting local councillors were on the rise. Political parties used such protests as part of their campaign conflating essentially local level matters to the national arena. The mix of politics and public protests mostly evoked violent confrontations. According to the ISS's public violence monitoring records, a total of 78 election-related incidents and protests were recorded in the first half of the 2014 election year, of which two thirds (53) escalated into violence. More than half of the perpetrators of violence (55%) are unknown. Where the political affiliation is known, the main perpetrators are supporters of the ANC (54%) followed by those of the EFF (25%). Most incidents (61) occurred six months preceding the elections. Half of the incidents recorded by the ISS took place in metropolitan areas, 27% in rural areas and 24% in non-metro urban areas. Gauteng (35%) and Western

Cape (22%) experienced the most election-related incidents followed by KwaZulu-Natal (14%), the Eastern Cape (13%) and Northwest province (12%). These provinces consistently experience some form of election related violence. For the first time, the 2014 election violence was directed at the IEC, with polling stations being burnt.

An analysis of the 2014 trends show that violence shifted away from KwaZulu-Natal towards the more hotly-contested provinces of Gauteng and the Western Cape. It reveals the nature of, and the different types of violence employed. According to research conducted by the Community Agency for Social Enquiry, election intimidation in 2014 was more widespread than generally recognized. It included:

- Economic coercion – misinformation and threats such as suggesting denial of pensions, grants, jobs, contracts, services and development opportunities if certain political parties are not voted for;
- Disruption, and the intimidation of participants of political party meetings and other events by rival political parties;
- Fatal violence and intimidation directed against individuals, notably political killings or assassinations;
- Attempts to disrupt the registration and electoral process.

The 2014 patterns additionally indicate that the risk of violence increases where newcomers challenge the dominance of political parties at a local level. This was illustrated during the 2016 local government elections. It is important to bear the link between local and national elections in mind and what they mean for political configuration and possible electoral violence. Local government elections have been labelled 'high stake elections' for two main reasons. Firstly, they provide a pointer to what might happen in the configuration of power at the national and provincial levels. Secondly, they are mostly affected by demography. The majority of the masses of poor South Africans that live in areas under local government management have high expectations of the government. Expectations are tied to the evolution and mandate of local government, vis a vis participation, development and service delivery. Local government in South Africa had no constitutional protection until the early 1990s. This situation was compounded by the exclusion of the majority from political participation until 1994.

It was within this context that the post-apartheid Constitution, (Section 40) sought to move progressively towards the social and economic uplifting of local communities, and to ensure universal access to essential services. Since 1996, the Constitution guarantees to local government its own sphere of governance, so that it is no longer an extension of the national or a provincial government. To ensure a developmental and people-cantered approach, that integrates development planning at the local level, the constitution (1996: section 152 (1)) states that... 'The objects of local government are ... (e) to encourage the involvement of communities and community organisations in matters of local government'. Within the framework of co-operative governance, the South African government enacted an impressive model of developmental local government, adopted in 1998 through legislation, in the form of the Municipal Structures Act (1998) and the Municipal Systems Act (2000). In 2001, the number of municipal entities was rationalized, from 1000 down to 284 municipalities. This was aimed at promoting effective local government in order to make better use of limited resources. The ward committee system was introduced to facilitate the forms of participative democracy outlined in the Acts. This system is the main form of public participation in local government.

According to the South African government, participation of citizens in local government structures and processes is meant to achieve two objectives. The first is to upholding Constitutional principles regarding participation in formal structures such as elections and referendums. The second relates to the development mandate of local governments to alleviate poverty through service delivery and

localized socio-economic development initiatives.²⁰ The two are complementary in analysing conflict dynamics during elections. In South Africa, local government elections have been notorious for two reasons; low voter turnout, and high incidences of political violence. The last local government elections in South Africa were held in 2011. The ruling ANC won the highest number of seats and councils with 198 councils and 5633 seats in total constituting 62% of the vote. The DA increased its support and came second with 18 councils; 1555 seats and 23.9% of support. The Inkatha Freedom Party and the Congress of the People followed the ANC and DA.²¹ The ANC, which controls the national and 8 of the 9 provincial governments, continued to control 7 of the 8 metropolitan and 198 municipal councils, and gained 64% of the votes. But, the party's share of the total votes cast fell from 66% in the previous local government elections.

While the elections were not free of violence, the turnout was significant. A record 57.6% voter turnout was the biggest ever since 1994. This was attributed to a tightly contested election in key municipal areas. Along with a wide range of local municipalities, four big metros proved to be the primary battlegrounds for the ANC, DA and the EFF. These are: Johannesburg, Tshwane, Ekurhuleni, and Nelson Mandela Bay. According to a study conducted by IDASA (2011), local government elections were fought on the platform of service delivery. The study, conducted on a citizen satisfaction survey, revealed very high levels of dissatisfaction, with poor municipal performance blamed on corruption, nepotism, poor management, and failure to listen to residents or keep them informed. A State of the Cities report released in April 2014 noted that local government is one of the least trusted public institutions. It is considered to be remote, unresponsive, poorly managed, and riddled with internal political party factionalism. Corruption in local government (in the allocation of houses, award of tenders and so on) is widely condemned and disillusionment widespread, with some Civil Society Organisations (CSOs) having urged voters to boycott the elections and some ANC members and supporters abstaining. Nevertheless, the belief that the government has the capacity to deliver and that it can be held to account, led to both high voter turnout and confrontations during the electoral periods. Some additional factors driving discontent and confrontations during local elections include demarcation disputes, where the demarcation of area results in its transfer to another province. The case study below is illustrative.

20 Mbuyisa, S. 2013, Public participation as participatory conflict resolution: Shortcomings and best practices at the local level in South Africa, *African Journal on Conflict Resolution*, Vol 13, No. 3, pp.116 - 118

21 See, Independent Electoral Commission, 'IEC releases final local government elections results' at <http://www.elections.org.za/content/new.aspx?id=1850>

Conflict around Municipal Boundary Delimitation: Moutse, Limpopo

Moutse is a semi-rural area that experienced incidents of election related violence including political intolerance, the intimidation of both voters and IEC in the run-up to the 2009 national and provincial elections and in 2014 to a lesser extent. One of the main drivers of this violence was frustration with changes to its municipal boundary, done with little consultation with the locals. Moutse, a stronghold of the ruling ANC, fell under the Sekhukhune municipality, which straddled two provinces, Limpopo and Mpumalanga. Since 2005, Moutse inhabitants have vehemently insisted that they should be part of Mpumalanga, which they argue is better managed with effective and efficient delivery of services. This was after it was transferred to Limpopo (along with three others) without consultation by the relevant authorities, (IEC, Municipal Demarcation Board, Councillors). Following discontent over the move, the government conducted a referendum to decide on its location. However, the authorities never released the results of the plebiscite. There were perceptions too that election officials were not impartial in their work, and that they were recycling the same voting staff from previous elections (especially school teachers and non-unemployed youth in the community). Grievances were further exacerbated by discontent over non-delivery of services (RDP houses, flush toilets and sanitation, clinic infrastructure, educational textbooks at local schools, etc.) and police clampdowns on disaffected communities. Since the 2009 referendum, villagers took government to the Constitutional Court but lost. The problems in Moutse remained unresolved as South Africa prepares for municipal (local government) elections in 2016. Meanwhile, a new political party – the Mpumalanga Party has since surfaced in the area. As its name suggests, it has been campaigning for the reincorporation of the area into Mpumalanga. The issue is a ticking bomb ahead of the 2016 local government elections. Violence has erupted in many areas when similar decisions to move municipalities between provinces were made. The common complaint has been a lack of consultation by political leaders regarding drastic changes to local government, plus general poor delivery of services. Formal mechanisms of resolving such disputes and conflict are not trusted by communities and therefore may not be effective.

Often there is community resistance to demarcations especially if they take place without consultation or if there is a perception that it was the case. The “swopping” of Ward councillors – without consultation has also been highlighted to be problematic, and political party infighting over the selection of candidates – which can lead to violent confrontations in-between communities and between communities and politicians.

Another important issue to discuss is public violence targeted at non-South Africans, referred to as xenophobic violence. This may necessarily not be linked to elections but could spike up in pre-electoral periods. The most prevalent cases occurred in 2008 and in 2014. Violence was rooted in the micro-politics of the country’s townships and informal settlements. While this may not directly relate to elections, research linked the violence to competition for local resources, not just in spaza-shop market share or government housing for instance, but also in political power. In explaining the timing and location of xenophobic violence, in almost all cases where it occurred it was organised and led by local groups and individuals in an effort to claim or consolidate their authority and power. It was tied to some political causes, so not purely about economic interests.²² In political circles, the mistrust of foreigners in poorer

²² These observations are from the findings of a 2009 study published by the International Organization for Migration.

communities, though rarely spoken of, is well recognized and has been instrumentalised by politicians, including from the ruling party. A 2014 study by the Gauteng City-Region Observatory found that 35% of all respondents wanted “all foreigners” sent packing; a sentiment that could be stoked for increasing support during electoral campaigns.

Hotspots and “no go areas”

Although there is no scientific measure accounting for the extent to which public protests impacted past elections, a big impact has been the demarcation of conflict hotspots by the IEC, in partnership with security bodies. It was because of protests that the IEC ended up identifying several ‘hotspots’ around the country. These are:

- **Gauteng province - Bekkersdal:** Bekkersdal in the Gauteng province was a high-profile flashpoint during the 2014 election. From mid-2013, Bekkersdal saw numerous violent protests, and the relationship between the community and the ANC governing party in that area soured. The precarious relationship reached a tipping-point on 13 March 2014, when ANC members doing door-to-door campaigning were driven out from the area, with residents pelting them with stones. The area was thus declared a no-go area for the ANC. Election-related disruptions included the torching of an IEC tent during the last registration-drive weekend, which resulted in Bekkersdal being identified by the IEC as one of four hotspots for election violence across the country. On the morning of Election Day, with heavy police and military presence in the area, some residents staged a protest burning tyres and blockading roads that led to some polling stations.²³
- **Kwazulu- Natal:** In 2014, an Inter-Ministerial Committee (IMC) responsible for the national general elections was deployed in KwaZulu-Natal, identified as one of the “hotspots”, ahead of the polls. The mandate was to stabilize the province ahead of the general elections. The ministers visited Kwa-Mashu and proceeded to Wembezi, KwaZulu-Natal. The areas are notorious for politically motivated violence over the past years.²⁴ Assassinations of party officials and leaders of political groupings were part of the contestation in the past and presently. Large-scale group attacks aimed at foreigners.
- **North West – Mafikeng:** Violent protests were recorded in Khunotswane village near Zeerust, the day before Election Day in 2014. Violence followed a protracted three-week service delivery protest. A council office and a councillor’s house were burnt down. Residents vowed to boycott elections unless provincial government intervened, and called for the resignation of municipal officials. There were no reports of violence on Election Day.²⁵ Bloemhof (Boitumelong) also caused concerns during the period leading up to the elections. Service delivery protests earlier in 2014 turned violent and disruptive. Some elections officials had to be evacuated in the midst of violent protests. A large police presence on Election Day was supposed to reassure voters and motivate them to vote. Yet, police presence fuelled dissent and led to a low voter turnout where 20% of 12000 registered voters ended up voting.²⁶

23 Electoral Institute for Sustainable Democracy in Africa, SA Elections 2014: The Problems of Unregulated Private Funding of Political Parties - Protests and the Provincial Results Patterns, Johannesburg, South Africa p15

24 SA News Agency, Security cluster visits hotspots ahead of elections, at <http://www.sanews.gov.za/south-africa/security-cluster-visits-hotspots-ahead-elections> 17 April 2015

25 Electoral Institute of Southern Africa, SA Elections 2014: The Problems of Unregulated Private Funding of Political Parties - Protests and the Provincial Results Patterns EISA Election Update 7, 2014, p. 16

26 Ibid. p, 19

Section III – Electoral Administration and the Legal and Institutional Mechanisms for Addressing Electoral Violence

A non-contested constitutional framework, a competitive party system, an agreed-upon electoral model and a credible election management system are generally identified as crucial in terms of mitigating election related violence. Of these four, the electoral system and its administration are relatively contentious in the South African context. It is important to consider the effects of an electoral system design, and electoral administration on electoral security and on the potential for triggering conflict. In terms of the former, any election law in essence is a mechanism for conflict management. So, the structure of an electoral system can either exacerbate probabilities for contestation and violence, or de-escalate it.

The overall purpose of South Africa's election legislation has been to promote equal participation in the political process. The legislation provides structure to the electoral process through the Electoral Act 73 of 1998. The Act provides rules for the elections, room for objections for perceived disobeying of the rules as well as mechanisms to address objections in order to prevent conflict. South Africa's PR electoral model has also been scrutinized for its contribution to stability. It has been argued (Lijphart: 1997) that some form of PR is essential if democracy is to survive in complex societies such as South Africa. In the immediate post-apartheid, the threat of deep-seated divisions and the potential for violence was latent. Reilly (2000) emphasizes the need for systems for elite power sharing in divided societies where PR can facilitate parliamentary representation of all groups.

In 2002, an Electoral Task Team (ETT) was constituted by cabinet to draft legislation for South Africa's electoral system for subsequent elections – beyond 1999. The provisions of the final Constitution relating to an electoral system did not extend beyond the 1999 elections. In considering the main values and principles that ought to guide a pluralistic electoral system of South Africa, the report concluded that fairness, inclusivity, simplicity and accountability would be core.²⁷ Given the demographic, ethnic, racial and religious diversity of the South African society, it considered that the electoral system should allow the widest possible degree of participation of different political preferences in representative legislatures.²⁸ The motivations for the four core values were discussed as follows:

- Fairness: Every eligible voter has the opportunity to vote, but also all votes should be of equal value. The prevailing PR system was thought to be fully proportional and representing "the ultimate in fairness" by promoting the value of universal adult suffrage.
- Inclusivity: Particularly with regard to the "...relevant and salient features of the South African context." An electoral system that promotes exclusion could be a source of political instability and conflict; the prevailing system - where even the smallest party can gain representation if it musters enough votes for a single seat, provided the ultimate in inclusivity.
- Simplicity: An electoral system that is complex, given the South African context, would negatively impact on fairness and inclusivity. The system has to be accessible and easy for voters to participate in. It should also be the same for political parties so as to enhance a multi-party system of democratic government. The PR system is simple enough to meet these criteria.
- Accountability: consideration was about the possibilities of either revoking or renewing the mandate of elected office bearers within acceptable time frames or intervals. The certainty of regular elections

²⁷ IEC Electoral task team report pg.20

²⁸ Ibid. p 84

was considered to impact the behaviour of representatives between elections.

According to the report, the majority of parties consulted were in favour of some system of proportional representation and eventually the consensus prevailed that the PR system be retained. The institution and legal framework of elections in South Africa has been endorsed by various election observer missions as complying with international best practices and standards for the conduct of democratic elections.²⁹ The debate on the advantages and disadvantages of the current system and alternative models has been ongoing and there have been substantive challenges to the core assumptions of the PR model and to conflict mitigation around elections. Whether the PR has been at the centre of fermenting political violence in South Africa remains to be established. Research on causality is scant. Indeed, electoral petitions made in the past had to do with elements of the electoral system, which were regarded as unfair and giving advantage to parties at the expense of others. This was more relevant where a small number of votes could make a big difference on the outcome of the election.

Section IV - Key Factors for Preventing Electoral Related Violence and Strengthening Early Warning Mechanisms

The report has discussed two main types of factors catalytic to election related violence thus far. The first relates to factors external to electoral processes, in other words factors that exist separately from elections -which concern the broader socio-economic environment in a given location. Conflict and violence that exist in the given social context –as demonstrated by public protests, can spill over into electoral processes and affect election management and electoral security. There are also factors that are internal to electoral processes and those that have potential to exacerbate existing conflicts and trigger election related violence. The capacity of the election management body to manage transparent, free and fair elections is therefore crucial. Its structural efficiencies can be measured by its ability to perform functions such as voter registration, training polling assistants, voter education, managing logistics on election day, vote tallying, announcing results and settling electoral disputes, without constraints. It has been argued that independent and permanent electoral bodies represent a clear best practice in terms of electoral administration. In fact, SADC countries are obliged to create independent EMBs in terms of regional electoral standards. A truly independent commission operates without direct political or executive control in its financial and administrative functions and comprises non-partisan appointees. The choice of electoral administration may influence electoral violence if the EMB is perceived to lack impartiality, independence, efficiency and professionalism.

The IEC was established under Chapter 9 of the South African Constitution –which deals with state institutions supporting constitutional democracy (referred to as Chapter 9 institutions).³⁰ According to the Constitution it is independent and subject only to the constitution and the law in the fulfilment of the mandate. Section 181 (2, (4) and (5) further elaborates that Chapter 9 institutions –the IEC: must be impartial; exercises its powers and perform its functions without fear, favour or prejudice; no person or organ of state may interfere with the functioning of the institution and that the institution is accountable to the National assembly and must report on activities and performance to parliament at

29 See for instance the report of the African Union Election Observation Mission (AUEOM) to South Africa, to observe the 7 May 2014 National and Provincial elections

30 See Bam, B, (2008), Ten Years of electoral democracy in South Africa: Successes and Achievements of the Electoral Commission in Archie Mafeje (Eds), *The Disenfranchised: Perspectives on the History of Elections in South Africa*. Pretoria: Leiden: University of South Africa Press, p. 119

least once a year. Members of the commission are appointed on the terms of the Electoral Commission act (Act 108 of 1996) and to ensure their political neutrality and personal integrity, names of candidates are solicited from the general public; an open and representative panel manages the selection process. The panel consists of the Chief Justice of the Constitutional Court, representatives from the Commission on gender equality, the South African Human Rights Commission and the Public Protector. A committee from the Parliament nominates persons from the panels' list of recommended candidates. The Parliament recommends candidates to the country's president by a resolution of the majority and the president then appoints commissioners. An important point to underline here is that the combination of a country's legislative framework, the extent to which it has checks and balances both in law and in practice all affect the public trust and integrity (perceived and real) of the IEC.

Consequently, the independence of the IEC is generally held in high regard. Despite some past incidents thought to undermine its independence as raised by political parties, it is largely perceived to be independent, impartial and highly credible in electoral management. Voter registration and the demarcation of boundaries have emerged as sensitive issues in the past. The latter caused contestation and violence especially at local government levels. The IEC has the powers and capacity inscribed in Section 5 of the Electoral Commission Act, 1996 to compile and maintain a register of **parties**; to undertake and promote **research** into electoral matters; to develop and promote the development of electoral **expertise and technology** in all spheres of government; to **review electoral laws** and propose electoral laws, and make recommendations; to promote **voter education**; to declare the **results** of elections for national, provincial and municipal legislative bodies within seven days; and to appoint appropriate public administrations in any sphere of government to conduct elections when necessary.

The Electoral Code of Conduct of 1998, or the framework that regulates and governs electoral behaviour, is based on the Bill of Rights, which guarantees human dignity, equality and freedom, and thus prohibits any form of intimidation and violence in elections. Its purpose as stipulated is to promote conditions that are conducive to free and fair elections – including tolerance, of democratic political activity, free political campaigning and open public debate. The Code empowers the Chief Electoral Officer of the IEC to institute civil proceedings before a court – including the Electoral court, to enforce a provision of the Act or the Code.³¹ Every registered political party and candidate is obliged to comply with the code. IEC staff is required to sign the code publicly to demonstrate their commitment to the pursuit of credible elections. While the code is in part checks and balances that protect the integrity of the election, it is not always effective as a conflict prevention tool. The main challenges in past elections are implementation and enforcement.

From 2015, the IEC took steps to institutionalise risk management as a means of strengthening its capacity to deliver credible elections. These developments are well captured in two key documents. The first is the Electoral Commission's 2016 Annual Report, which provides the IEC's overall risk management strategic posture.³² It denotes a three-tiered strategy that puts emphasis on the commission's institutional governance, internal capacities for managing external risks in electoral processes and compliance in performance management.³³ The annual report makes the point that risks generally concern a host of operational, legal, political and security risks that may arise at any time during the country's electoral cycle. The report has a section on **'Strategic outcome -orientated goals' where it profiles efforts made**

31 See IEC Electoral code of conduct in the Electoral Act 73 of 1998 including Regulations

32 The Electoral Commission's 2016 Annual Report is available at www.elections.org.za/content/Documents/Annual.../2016-IEC-Annual-Report/

33 See The Electoral Commission's 2016 Annual Report , pp. 23 - 24 and p.61

to institutionalize mechanisms that promote, among others: cooperation with and between persons, institutions, governments and administrations for electoral management; and dispute adjudication.³⁴ Key to this is the IEC's Outreach programme that encompasses Civic and Democracy Education, Communications, Knowledge Management, Media Relations, Research and Stakeholder Relations Management.³⁵ Emphasis is also put on **IEC's partnerships** with key stakeholders in the area of conflict prevention and management. These, according to the IEC are indispensable to its work generally and profiling and mitigating election related risks in particular.³⁶ Structured partnerships include those with government departments dealing with internal affairs, safety and security, other Chapter 9 institutions and civil society organisations, including faith-based organisations.

The second is a document profiling the IEC's electoral risk management practices in South Africa authored by Granville Abrahams.³⁷ In it, Abrahams argues that an all inclusive framework for managing electoral risks is still a work in progress for the IEC mainly because the initial risk management model developed was compelled by requirements from the Treasury and less by external operational needs.³⁸ Abrahams adds that since the IEC is a public funded institution, it is bound by the risk management framework of the National Treasury which require that all state funded institutions maintain an updated risk register. But such a register was developed for compliance and to mitigate internal operational and financial risks rather than a distinct electoral security and conflict management tool.

However, the IEC considers itself as a learning institution and has evolved the practice of documenting external electoral risks in the history of its operations with the intension to address them more specifically. An example of this as highlighted by Abrahams, lies in its preparation for the 2016 local government elections, where the perceived impartiality of election personnel (presiding officers) was raised by opposition parties. Then, the IEC had recruited members of the South African Democratic Teachers Union (SADTU) as IEC presiding officers. According to Abrahams, About 50% of the IEC's presiding officers are teachers; 60% of voting venues are schools, and therefore using educators as electoral officers is convenient for both access and financial efficiency.³⁹ So, members of SADTU had acted as electoral officers in previous elections. The concern raised from some opposition parties was that of a possible conflict of interest and lack of impartiality in administering elections. SADTU is an affiliate of an ANC allied trade union federation called the Congress of South African Trade Unions (COSATU).⁴⁰

Voter busing (which refers to the fraudulent transportation of voters to register or vote illegally in another area) was also flagged by the IEC as a risk factor in the 2016 municipal elections.⁴¹ Voter busing mainly presents a challenge for the IEC because of a lack of legal safeguards concerning domicile requirements for registration. In South Africa, there is no legislative requirement asking voters to provide proof of address when they registered. As such, it remained a problem for the IEC to the extent that parties

34 Ibid. p13

35 Ibid. p. 47

36 Author interview with Terry Tselane, Acting Chair, IEC South Africa, September 17, 2015

37 See, Abrahams G, Case Study 6: Electoral risk management practices in South Africa, in International Institute for Democracy and Electoral Assistance, 2016. Risk management in elections. Policy Paper No. 14 November 2016. Available at <http://www.idea.int/sites/default/files/publications/risk-management-in-elections.pdf>

38 See, Abrahams G, Case Study 6: Electoral risk management practices in South Africa, in International Institute for Democracy and Electoral Assistance, 2016. Risk management in elections. Policy Paper No. 14 November 2016. Available at <http://www.idea.int/sites/default/files/publications/risk-management-in-elections.pdf> p52.

39 Abrahams opcit. p.53

40 B. Mbanjwana. **FP steps up bid to stop Sadtu electoral appointments**

Daily News, 2 May 2014 at <http://www.iol.co.za/dailynews/ifp-steps-up-bid-to-stop-sadtu-electoral-appointments-1682873>

41 Abrahams, opcit p.54

raised objections on the voters roll and being taken to the Electoral Court over alleged rigging of voter registration. The IEC also listed service delivery protest and public protest against municipalities as an existential risk in election management. The acknowledgment is that these are cyclical and recurrent but more so during electoral events.

According to Abrahams, the IEC has slowly institutionalised risk management –whose current components include:

- **Internal Research and Scenario planning mechanisms:** this involves monthly meetings of senior officials to discuss election related developments and provide updates on possible risk issues
- **Political Party Liaison structures:** often referred to as PLCs, these are provided for in the Electoral Commission Act and exist at national provincial and municipal levels. Their main purpose is to act as a consultative mechanism between the IEC and political parties in preparations for elections as well as their management. PLCs also provides the commission with a mechanism to build confidence between itself and political parties, identify potential electoral risk factors indifferent provinces and municipalities, and provide early warning and response on the part of the IEC and its partners. PLCs are also useful in policy inputs regarding the interpretation and possible review of electoral legislations and regulations.⁴²
- **Coordination with the Justice Crime Prevention and Security (JCPS) cluster.** This is the cluster that deals with safety and security in South Africa. It is mainly chaired by the Minister for Defence with the Minister for Police (safety and security). The South African Police and the Electoral Commission jointly chair the Election Priority Committee. The JCPS comprises other departments including the ministries of Justice, Correctional Services, Home Affairs and State Security. the JCPS operates at national and provincial levels through structures called NATJOINTS and PROVJOINTS respective.
- **Project on Coordinating Conditions for Free and fair elections:** the IEC has a dedicated project focusing on 'Conditions conducive to free and fair elections' with a distinct focus on conflict management and mediation. It works at national and provincial levels where in the case of the provinces, it appoints provincial coordinators, at least 6 months prior to an election. These exist in each one of the country's nine provinces and work with experienced conflict mediation panels selected from communities.
- **Conflict Mediation and Prevention Committees:** these are coordinated by the IEC and involve political parties and CSOs. Their function is to provide a consultative platform for early conflict identification, mitigation and management during electoral periods.
- **Legislative workshops:** the IEC convenes workshops and training events with political parties and the media as a capacity building measure for their understanding, participation and coverage of elections. Central to this is minimising misinformation and misinterpretation of the law and electoral regulations and promoting peaceful electoral practices
- **The Electoral Court:** According to its mandate, the court functions as the highest authority on hearing and adjudicating election related matters, disputes and complaints. It has the same status as the Supreme Court and is only subordinate to the South African Constitutional Court.⁴³ By its own admission the IEC encourages the use of this court and others to also guide it in its own application of the law and welcomes challenges to its work as strengthened constitutional democracy and

42 The IEC's liaison with political parties is discussed in length in the Electoral Commission's 2016 Annual Report, p 41

43 See the 1996 Electoral Commission Act at <http://www.elections.org.za/content/Documents/Laws-and-regulations/Electoral-Commission/Electoral-Commission-Act-51-of-1996-including-Regulations/>

better election management.⁴⁴

So, in summary, the IEC's evolving conflict prevention and dispute management structure are elaborated in its 2016 Annual Report and its electoral risk management discussed above.

Section V - Conclusions and Recommendations

Conclusions

There is no doubt that the complexity of public protests and political violence manifesting during elections has been part of South African political expression for some time. Challenges such as demographic shifts, rapid urbanisation and high levels of unemployment, poverty and inequality, along with uneven service delivery and unaccountable governance, continue to plague the country 23 years into its democracy. Moreover, it has been difficult for national institutions to establish a more comprehensive monitoring system for tracking political violence, violent protests and collective violence linked to electoral periods across South Africa. Better monitoring of the period leading up to the 2016 local government elections allowed the IEC and the country's security institutions to identify and intervene in conflict hotspots. The IEC was particularly able to strengthen its dispute and conflict resolution capacity in these areas. However, managing or even mitigating election related violence is not a purely technical endeavour as it is laden with a complexity of competences beyond electoral management, especially in addressing historic social and economic cleavages in the country.

This report concludes with 5 key findings. Firstly, the management of elections characterized by violent incidents can indicate both the absence of a democratic culture in a country and situations where the capacity of institutions to carry out credible electoral processes is either lacking or undermined. Electoral conflicts and political violence can signal weaknesses in electoral governance and administration. Arguably this is not the case for South Africa, where successive elections built and enhanced the country's democracy and its institutions. By and large, South Africa's electoral processes have not been characterized by fraud, mismanagement, and political influence. On the whole, democratic norms and practices have taken root, electoral and constitutional rules are well entrenched, and electoral contestations have not resulted in large-scale violence. Disputes related to how elections are managed fuel violence in situations where there is a perception of bias by the IEC and also in instances where contestants do not follow the rules or accept the election outcome as a legitimate expression of the electorate.

Secondly, elections promote peace and security when there is a culture of tolerance between communities. While political intolerance has been on the wane in South Africa, political competition between the ruling party and the opposition has triggered violent interactions. Intolerance has manifested itself at the local level in areas where there is a political threat to local ward councillors. A number of ward councillors and their rivals have been murdered and homes vandalized in the past.

Thirdly, it is precisely the underlying structural issues embedded within the broader South African political economy that stimulated incidents of violence. These relate to dislocations in the broader structures of governance, including the equitable provision of socio-economic dividends, which often

44 Sentiments expressed by IEC Chairperson Mashinini, G in the 2016 IEC annual report, p.8

results in exclusion and inequality and may sow the seeds of social tensions. So, elections per se do not cause violence in South Africa. It is rather the processes of political competition that exacerbates existing tensions, exposing structural disparities and inequalities, which stimulate the escalation of tensions into violence. While this is the case, the role of rogue elements in such situations should be highlighted.

Violence in South Africa may erupt at any point during an electoral cycle. Violence is not necessarily connected to an electoral event. The spate of service delivery protests since the last election in 2014 is illustrative. Research further shows that most protests occurred in informal settlements and townships in large metros. Metros, including Johannesburg, Ekurhuleni and Cape Town have experienced varied degrees of service delivery protests in the last few years, in addition to a number of fairly specific cases in the provinces of the Northwest and Kwazulu Natal. Analyses point to the fact that the protests are at the backdrop of population pressures in those localities. Metros experience the highest population growth rates in all of the country's localities. It is in these areas that most migrants find themselves unemployed, living in the periphery of large metros and effectively marginalized from both access to economic opportunity, as well as housing and services. There is a strong causal link between high levels of migration and service delivery protests. The responses of the state to protests have largely been hostile and there has been a failure to respond to the service delivery needs of communities.

An additional point is that dealing with political violence and election related conflicts in the country is a collective responsibility involving key national institutions. Central to this too is an understanding by government that electoral democracy will be of little use if it is not accompanied by reforms, which improve people's lives. The ability of the South African government to consider both electoral violence and violent protests, as manifestation of unresolved socio-economic and political issues is important. This is where government capacity needs strengthening as violence is often solely seen as triggered by an event. There is a need to move beyond ad hoc interventions and towards approaches that focus on durable institutions of meaningful social and economic change. Government at all levels (national, provincial and local) has to look, in a number of practical ways at the link between political violence, service delivery protests, and elections -and how to mitigate violence. Lastly, a focus on demographic patterns in election related violence is needed. An in-depth understanding of the factors that influence violent expressions of discontent and how these can be mitigated, as well as programs that target capacity building at local levels to improve representation, governance, and service delivery are needed.

Recommendations

The report concludes with the following seven recommendations in terms of the varying manifestations of electoral violence in South Africa:

1. The first concerns the IEC's capacity to mainstream electoral security assessment in its electoral management framework. Although risk management has assumed greater focus in the IEC's strategic planning and that of partner government entities as a conflict prevention measure, it has not been systematically implemented in practice, during the administration of elections. The IEC should standardise risk management in its operations and also assist other election policy makers and practitioners in understanding how it works and how it could effectively be utilized.
2. In the 2016 local government elections, electoral security was prioritized by means of establishing the Local government elections Inter-Ministerial Committee, chaired by the Minister of Cooperative Governance and Traditional Affairs. A National Joint Operation and Intelligence Structure was convened and the sub-committee on elections coordinated safety and security planning for the election, while government's Justice, Crime Prevention and Security Cluster engaged various

municipalities in the country in a bid to ensure safe elections. Hot spots were identified and security was heightened especially on Election Day, in these areas. These measures, while laudable and necessary, are adhoc and short term. Institutionalizing some of these measures, assuring their coherence and sustainability could prove more effective in the longer term.

3. At a technical level, the IEC should develop a practical and more comprehensive Electoral Security Assessment Framework that distinguishes between historical conflict, structural and trigger issues and election specific risk factors. The objective should be to isolate and identify significant correlations between specific risk factors and specific types and intensities of violence during specific phases of an electoral cycle.
4. There is equally need to enhance the IEC's early warning capacity -including information gathering concerning potential electoral hotspots. This process should include technical assistance, training of staff in electoral management, and support for information technology capacities.
5. At the national level, there is still need for institutional collaboration between the IEC and other government structures to mainstream conflict-prevention in their operations. The most significant question is how government and even the IEC itself can best mobilise various institutional energies to do so. What is still needed in a more detailed comparative case analysis of the type and intensity of electoral violence incidents, the perpetrators and victims of these incidents, and the phases of the electoral cycle in which these incidents occurred and measures of mitigation. More salient risk factors could be heavily weighted more heavily for predicting electoral violence in various contexts
6. Security risk factors further reflect the training, equipment, support, and politicization of security forces and the extent to which security agencies are well trained for public order policing. The South African political environment in recent months has reflected serious inadequacies from the police in handling public protests, especially those that may seem political and those taking place during electoral periods. Establishing good practices and behaviours for a-political public order policing across the electoral cycle remains an important imperative for the government.

Lastly, the IEC with relevant government institutions should prioritize conducting post-election audits. These have been conducted infrequently if at all. Post-election audits could point to governance and accountability reforms, as well as be used to inform conflict prevention strategies. They could also feed into its risk management model for future electoral management operations.

Swaziland

Author : Lungile Mnisi



Swaziland

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Introduction

Swaziland maintains a hybrid system of governance characterised by a fusion of traditional institutions and liberal principles of governance. Though the Swaziland independence Constitution which was promulgated by Britain in November 1963 was progressive, the 1973 Decree curtailed the liberal democratic system. Since then, the parliamentary system has become subsumed under the traditional system with the Monarch at the helm. After the repeal of the Constitution in 1973, Swaziland experienced a five-year break during which time no elections were held until the establishment of the Parliament Order in 1978. In the absence of legislative framework to govern elections, the Parliament Order was introduced without much opposition. This Order ushered in the unique traditional electoral system commonly known as the Tinkhundla. The 2005 Constitution retains the absolute rule of the monarch ensuring that Bills are not passed into law without his assent; and further empowered the King to dissolve parliament as well as retain executive and judicial powers as he appoints and fires Judges¹.

Elections do not only establish the composition of a governmental authority, they also establish democratic governance and help resolve power struggles. The Swaziland elections perfectly achieves the establishment of the government authority with its composition carefully managed; while its ability to achieve democracy, and resolving power struggles remains intentionally submerged. The legislative, technical frameworks and the electoral institutions in charge of discharging elections do not guarantee conducive environment for political competition in a fair and peaceful manner. In fact, there are rather limitations such that campaigning candidates are confined to issues of socio-economic development and matters of national importance; without giving a clear indication on how a matter of national importance will be identified². Power struggles are heightened at every election period, and remain unresolved.

An overview of recent electoral processes in Swaziland reveals numerous structural, legal and practical barriers which impede the equitable enjoyment of the rights necessary for free and fair electoral processes as enshrined in the ICCPR (art. 25), SADC Principles and Guidelines Governing Democratic Elections, 2015 (art. 4.1), African Charter on Democracy, Elections and Governance (arts. 3, 3(11), 4, 6, 12). The political atmosphere is stiff in Swaziland; with set up legislations and institutions to ensure offenders of the political status quo are dealt with. The Suppression of Terrorism Act 2008, Public Order Act 1963, Swaziland Administration Order 1998, Sedition and Subversive Activities Act (Act No 46 of 1938) are used interchangeably or collectively to suppress and discipline offenders. Police have been politicised, the independence of the Courts is in doubt, and the traditional local authorities; all play a role in ensuring conformity of citizens at all times.

Based on the foregoing; Swaziland's '*electoral conflict*' is a subset of a political system which symbolically violent, if we are to borrow from the theory of Pierre Bourdieu, a French sociological theorist. Symbolic violence is defined as the kind of gentle, invisible, pervasive violence that is exercised through cognition, knowledge and sentiment, often with the unwitting consent or complicity of the dominated³.

This chapter explores in-depth how symbolic violence plays out through the Tinkhundla system of government in the first three sections; section 4 demonstrates issues related to the key factors for prevention and strengthening early warning mechanisms. The conclusion in section 5 recommends on the issues raised in sections 4 and also highlights key follow up activities to assist the country address

1 Swaziland Constitution, Sections 134, 153, 154, & 159

2 Elections Act, section 41 (2) - Civil Society Parliamentary Submissions during the Portfolio Committee Public hearings on the elections legislations

3 <http://eige.europa.eu/rdc/thesaurus/terms/1403>

the symbolic violence which is embedded in its political order.

Section I – Understanding the Tinkhundla System of Governance: Context and Drivers of Electoral Conflict and Violence in Swaziland

Electoral conflict has been a part of the political landscape in Swaziland particularly prominent since the 1973 King's Proclamation to the nation⁴ which rooted the absolute power of the monarch and ensured the exclusion of political parties in governance. Multi-party election which is a core value of a democratic society was soon replaced by cultural and traditional norms under the pretence that they are responsible for the undesirable political activities which are subversive and incompatible with the normal and peaceful way of the Swazi people⁵. Also, a greater part of the continent's post-independence movement in the 1970s shifted to one party state or none party state. Most others have reverted to multi-party but Swaziland has remained the same. The post 1973 events are appreciated as a struggle between modern and traditionalist's factions. Over the years, this conflict has multiplied giving rise to other complexities in the political landscape of the country. The Swaziland Constitution of 2005, while having the formal features of representative democracy such as elections and parliament, in reality it entrenches the late King Sobhuza II Proclamation to the Nation; thereby constitutionalising the absolute power of the monarchy which is neatly tucked into the Tinkhundla (*Constituency*) form of democracy.

Conflict is not necessarily a negative phenomenon; it is part and parcel of social change in societies but can be destructive and counterproductive once it is not managed; and this seems to hold true for Swaziland. In a bid to position multi-party around the evolving political conflict in Swaziland, political parties have formed and dismantled along the evolving and deep rooted form of governance; others have reformed their tactical response to address the political challenges⁶. They have explored strategies such as litigation on the basis of the clashing constitutional provisions; and went to extremes of divisions and or break away due to differing ideologies and envisioned strategies to gain political power. On a similar token, there have been notable fractures within some political parties due to the growing frustration and impatience over what seems to be a continued entrenchment of the Tinkhundla system of government. This has had far reaching consequences and has motivated some form of violence in the Swazi society as well placing women and the youth at the receiving end. Women and youth face discrimination and exclusion, particularly, because of the socio-cultural context of the country.

1.1 Cultural Nationalism: Cultural Politics in Swaziland

The Tinkhundla system of governance is embedded in culture and tradition. Throughout the period of colonialism, independence and to date, election participation systems in Swaziland have been pre-occupied with ensuring that the Swazi law and customs as well as institutions are not weakened by modernised democratic systems. This is safeguarded by the entrenchment of culture and tradition in Swazi politics through the Tinkhundla system of governance. This system of governance is articulated by the Constitution and the Elections and Boundaries Commission (EBC) as a democratic participatory, which emphasizes devolution of state power from central Government to Tinkhundla areas. It is founded on individual merit as a basis for election or appointment to public office⁷. This system of governance

4 King Sobhuza II decreed the abrogation of the 1968 Constitution and with it the removal of the Bill of Rights; banning political parties and assumed legislative, judicial and executive powers.

5 Olaleye Wole (2003) Traditional Politics Re-Examined: Chieftdom Politics vs Electoral Processes in Swaziland. Update 2003, Swaziland Number 2, (PDF document).

6 The formation of the Tinkhundla system of government, ruling through Decrees, and the constitutionalised absolute power of the monarch.

7 Swaziland Constitution, Section 79; EBC Conduct of Elections accessible at <http://www.gov.sz/>

can be traced back to the leadership of King Sobhuza II who devoted much of his time and energy to ensuring that traditional ideals and beliefs became the guiding light and central theme of his lengthy reign since 1921-1982⁸.

Motivated by the wave of decolonisation engulfing Africa, Swaziland had four prominent political parties as early as the 1960s heralding decolonisation. These were the Mbandzeni National Convention (MNC) formed in July 1962, Swaziland Democratic Party (SDP), the Ngwane National Liberatory Congress (NNLC) formed in April 1963, and the Swaziland Progressive Party (SPP) formed in 1960⁹. Swaziland got its independence with a Westminster-type of Constitution and a parliamentary democracy. Seeing these developments, King Sobhuza II reluctantly formed the Imbokodvo National Movement (*The Grinding Stone*) which won all 24 seats in the first post-independence election. Frustration began after the 1972 election; when the INM faced an opposition of only three MPs which prompted King Sobhuza II to abrogate the independence constitution. These political parties were soon wiped-out following the King's Proclamation to the Nation in 1973. In terms of the Proclamation, the King appropriated judicial, executive and legislative powers to himself; also the abrogation of the Bill of Rights, banning of political parties and dissolving parliament; and the introduction of the 60 days' detention without trial was applied as a tool to suppress dissent. This is a period when conflict was implanted in the political landscape of the country and a repressive dispensation born; as Magongo observes that the Royal Swaziland Police were present in force when the Proclamation was announced, and the establishment and deployment of a new army (Umbutfo Swaziland Defense Force) was announced at the same time¹⁰.

Post the 1973 King's Proclamation to the nation, Swaziland started on a new political path to reform the structure of the state and to consolidate position of the monarchy; hence the birth of the Tinkhundla system of governance. Tinkhundla system was imposed on the people through the 1978 Order and the 1981 Proclamation under a state of emergency brought about by the 1973 events¹¹. The architect of the system which purportedly seeks to retain the Swazi culture and tradition against contamination from foreign and evil forms of government centralises and safeguards state power to the King and establishes institutions and mechanisms for monitoring to ensure domination of the "central voice" to the periphery under the management of Chiefs. Chiefs play a pivotal role in ensuring that their subjects toe-the-line. Constitutionally, chiefs are custodians of culture and tradition¹² and are the footstools of the King and he rules through them¹³. During election processes, an *inkhundla*¹⁴, under the safeguards of the chiefs and relevant traditional authorities, acts as nomination and election centre for candidates who run for three public offices in governance. The three public vacancies are *bucopho benkhundla*, *Indvuna YeNkhundla* and the Member of Parliament¹⁵ which completes the hierarchy of the Tinkhundla system of governance; where in at the helm is the King. The continued role of the chiefs in cultural nationalism cannot be underestimated. Cultural nationalism as referred to by other scholars¹⁶ ensures that the parliamentary system is subservient to culture and tradition, or by illation, the monarch. Parliamentarians work closely with *bucopho* and *Indvuna Yenkhundla*; and that ensures checks and balances for the Tinkhundla system and ensures that the mandate derived from; and that accountability and transparency for public officers is channelled purportedly towards chiefdoms. As such, the electorate and their elected officers

8 Magongo E. M. (2009) Chapter 2, Tradition in Swazi Politics – in her thesis: kingship and Transition in Swaziland

9 Richard Levin 1997 (pg. 61 – 70) *When the Sleeping Grass Awakens*, Witwatersrand University Press, South Africa

10 Supra-note 8 (2009:48)

11 Dr Joshua Mzizi (2005) *Political Movements and Challenges for Democracy in Swaziland* EISA Report

12 Chiefs are part of the Swazi Traditional Government who are in the direct contact with the people amongst others institutions that form part of the traditional structure (see Section 227 (1))

13 Section 233 (1)

14 An *inkhundla* is singular of *tinkhundla*. An *inkhundla* is a geographic area comprising several (4 or 5) chiefdoms and serve as a constituency area for election into public office

15 The three vacancies represents a the hierarchy and the chain of command in the democratic spectrum of the country.

16 Supra-Note 8

have no mechanism of exchange without being monitored and or convened by the chiefs. Electorates or either of the public officers cannot freely voice out dissatisfaction over the system of governance as that is interpreted to be challenging the institution of the monarch.

The enactment of the Constitution of 2005 with a seemingly progressive Bill of Rights guaranteeing civil and political rights; critical amongst which are freedom of expression, association and assembly, offered a false promise for members of the progressive movement and unorganised liberal citizens who had hope for a more open civic space. Self-censorship is enforced not only to private individuals but also public figures that hold political office. The case of former Member of Parliament and Senate, Mr Mfomfo Nkambule, is testimony to the on-going clash between freedom of expression as guaranteed by section 24 of the Swazi Constitution and traditional customs calling for absolute reverence of the King. Mr Nkambule had, during his time of office, written a commentary published in a local newspaper, the *Times of Swaziland*, about the failure of the King's address to the nation in 2009 to focus on pertinent issues such as poverty and the high prevalence of HIV. He was summoned by the traditionalists and ordered to buy four to six cows to appease the King; otherwise face the eviction of his family from their homestead under traditional law and custom; a case which is outside the jurisdiction of any court¹⁷.

Undoubtedly, liberal citizens and those in the progressive movement are frustrated by the status quo and chose to disengage themselves from any of its processes. Hence, the Swazi society is divided along the traditional and liberal camp. Efforts to reconcile the different ideologies have not been met with ease by the ruling elite. Pressure for reform has been mounted internally and externally; however, it has not been honestly embraced. In reference, these were the commissions set up by King Mswati III to gauge the citizens on matters related to good governance, democracy and economic development¹⁸. These were the Tinkhundla Review Commission (TRC) 1992; the Constitutional Review Commission (CRC) 1996-2000 and the Constitutional Drafting Committee (CDC) 2001 – 2004. Both the TRC and the CRC set up conditions which forced advocates for political parties to boycott the exercise. Group advocacy was disallowed; and participation was on individual basis at *inkhundla* level¹⁹. Despite efforts by various civic groupings and political parties to defy the call, their efforts were however thwarted through law enforcement agents who targeted and dealt with individuals driving campaigns for group recognition. Consequently, the Constitution further entrenched the duality of the legal and the dual governance systems; namely the Swaziland Traditional Law and Custom and Roman Dutch Law - and dual system of government comprised of the traditional Tinkhundla structures and the Westminster system of governance.

1.2 Constitutionalised Absolute Monarchy vs. the Right to Self Determination

The concept of self-determination was recognised as a writ for obtaining decolonisation²⁰; and eventually evolved to become individual right to democratic governance. Essentially, the right to self-determination is the right of a people to determine its own destiny; politically, socially, economically and culturally. It started shaping and reforming in international human rights instruments as the Universal Declaration of Human Rights (UDHR, 1948); articles 19, 20 and 21, becoming clearly refined in the International Covenant on Civil and Political Rights (ICCPR). These instruments have influenced regional and domestic law. Swaziland, through the Constitution of 2005 attempted to domesticate international law; albeit ensuring the monarch retains absolute power which has been a driver for political and electoral conflict.

17 Mohamed Keita, Africa Research Associate; <https://cpj.org/blog/2009/03/swazi-columnist-fined-forcritising-kingin-cows.php>

18 Dr Joshua Mzizi (2005) Political Movements and Challenges for Democracy in Swaziland EISA Report

19 ibid

20 Franck M. T. (1992) The Emerging Right to Democratic Governance, the American Journal of International Law, Vol. 86 (1)

From the preceding discussions it has been outlined that the Swaziland's Tinkhundla system of governance runs short of the substantives of democratic elections as per international and regional electoral law²¹. The constitution of Swaziland arguably seeks to create a *parliamentary democracy* where the political right to self-determination of the citizens is exercised through their representatives in parliament which it attempts to fulfil through the use of *Tinkhundla's* as federal entities. Federalism posits a hierarchical doctrine that every political system has a centre and periphery, and that the centre is culturally and politically superior to its periphery which eventually forms an undemocratic form of governmental decentralisation²². In an attempt to be relevant in August 31, 2013; King Mswati III renamed the *Tinkhundla* system of governance in what he said to have been revealed to him in a vision when lightning struck on a winter night that was generally had neither clouds nor rain; and he saw the new name for Swaziland's new democracy – "*Monarchical Democracy*"²³.

Moreover, weighing the constitutional composition of the legislature and the powers to enact laws sift away the voice of the electorates and takes away their democratic right of self-determination. Parliament is composed of two sets; members elected from *tinkhundla* and those appointed by the King; and this is further delineated into the House of Senate and the House of Assembly²⁴. The Senate comprise of not more than thirty-one members²⁵; twenty of whom are appointed by the King²⁶, and the remaining ten are drawn from the *tinkhundla* elected MPs chosen by through an electoral college formed by the elected members after their first seating. The House of Assembly consists of seventy-six members²⁷; sixty of whom are democratically elected from *tinkhundla*, and ten of whom are nominated by the King²⁸. It is important to note that, formulation of policy and bill initiation is initiated by the Senators; wherein 2/3 is appointed by the King. Furthermore, section 108 (1) of the Constitution holds that a Bill cannot become law unless the King has assented to it and signed it in token of assent; while section 106(a) offers that legislative authority of Swaziland vests in the King-in-Parliament.

1.3 Dynamics within the Pro-Democracy Movement (Political Parties)

The pro-democracy movement and political parties in post-colonial Swaziland presents a myriad of variables that mimics the divided society of the country which is along conservative lines which fully subscribes to cultural nationalism; some embracing the notion of a Constitutional Monarch; and others strongly supporting the formation of a Republic. It is even common to find differing ideologies in one political party; which blurs the advocacy mission of a future Swaziland. This could be due to many reasons ranging from the failure of political parties to mobilise and re-invent themselves with relevance owing to the political climate as others remain banned; to the lack of resources and means to organise and host congress meetings. The Suppression of Terrorism Act 2008, has been used to target those dissenting voices to the status quo. Dlamini L. (2013) offers that the discussion regarding democratisation in Swaziland cannot ignore the issue of the position of the monarch; which are sentiments shared by Dr J Mzizi²⁹. Sharing their views at a consultative conference on the position of the monarch in the democratic Swaziland they envision; political parties gave diverse responses. Amongst them only Sive

21 The International Convention on Civil and Political Rights, The African Charter on Human and People's Right, the African Charter on Democracy, Elections and Governance 2007, Declaration on the Principles of Governing Democratic Elections in Africa 2002, the Southern Africa Development Community (SADC) Principles and Guidelines Governing Democratic Elections

22 Sklar R. (1987:698) Developmental Democracy, Comparative Studies in Society and History, Vol.29, No.4

23 Richard Rooney (2 September, 2013) KING'S NEW NAME FOR NON-DEMOCRACY: <http://swazimedia.blogspot.com/2013/09/kings-new-name-for-non-democracy.html>

24 Section 93 (2005, Constitution)

25 Section 94 (1)

26 Section 94 (3)

27 Section 95 (1) (a)

28 Section 95 (1) (b)

29 Dlamini L. S. (2013) , Swaziland: Democracy and Political Participation. Also refer to supra-note 13

Siyingqaba (SS), the NNLC and the National Congress for Democratic Change (NACODEC) embraced the notion of a constitutional monarch. The Communist Party of Swaziland (CPS), which is a break away from PUDEMO advocates for a Republic. The African United Democratic Party (AUDP) leaned more on a Republic with the monarchy continuing to exist albeit in a subordinate position to that of the President. The People's United Democratic Movement (PUDEMO) was never committal in their response³⁰. Other political parties' existent in the country were not in attendance of the consultative conference to give their views³¹, while others have been dismantled³². The diversity of the vision of a democratic Swaziland by political parties needs to be tested against the vision of a majority of the Swazis citizenry.

Apart from the diverse vision of a future democratic Swaziland, political parties are grappling with an issue that has caused a rift and rivalry amongst them – that of participation or boycott of the national elections under the Tinkhundla dispensation. Since the inception of the Tinkhundla system of governance PUDEMO had consistently called for a boycott of the national elections, and later joined by the CPS who hosted an elections boycott campaign in Swaziland during the 2013 elections³³. NNLC had all along not publicly voiced out its stand on the elections until in 2013 election. Though some of their members had participated and actually won a seat under the tinkhundla system of governance³⁴; neither the party nor the elected party members has maintained links with each other. This is partly due to the Tinkhundla system; as well as the failure by elected members and the party in question to make space for engagement outside of parliament. It is not until July 2013 that the NNLC came to publicly announce that they will boycott the national elections through their Secretary General Thamsanxa Hlatshwayo together with the congress' International Secretary Samuel Magagula³⁵. Even after the NNLC had pronounced boycotting the elections; some of its members who participated made it into the current government (2013-2018). These are Honourable MP Saladin Magagula from Hhukwini constituency in the Hhohho region and Dr Phineas Magugula who is the current Minister of Education and Training.

To the contrary, the newly launched Swaziland Democratic Party (SWADEPA) which was formed in 2011 and formerly launched in 2012 announced its participation in the 2013 elections³⁶. Led by former unionist, Jan Sithole, who eventually ran and won parliamentary elections in one of the constituencies in the Manzini region, SWADEPA attracted a lot of criticism and alleged intimidation from its counterparts. Sibahle Sinje Siyingqaba, which is a pro-royalist organisation, had always taken part in elections. Though the strategy for participation in the election had not been revealed by SWADEPA nonetheless, their battle slogan "*Ngeke Sibayekele*"³⁷ which loosely translates to "*we will not let them*" does give out the motivation for participation. SWADEPA saw itself as a voice that will challenge the status quo. Furthermore, their participation was motivated by the fact that the previous boycotts in 2003 and 2008 did not yield any positive results while the regime continues with its usual business³⁸.

30 Dlamini L. S. (2013, pg. 32-33): Democracy and Political Participation in Swaziland

31 Swaziland Democratic Party (SWADEPA) and Imbokodvo National Movement

32 Inhlava Forum, Swaziland Independent Front, Swaziland National Front, Swaziland Progressive Party, Swaziland United Front, United Swaziland Association (see supra-note 16)

33 LINKS: International Journal of Socialist Renewal (September 2013) Swaziland: Communist Party leader arrested during 'election' boycott campaign; accessible at <http://links.org.au/node/3517>

34 NNLC members who had previously participated and won parliamentary elections over the previous year's post 1973 were Sikakadza Matsebula, Vulindlela Msibi, Albert Shabangu, Govane Mvubu, Barnabas Mhlongo to mention just a few.

35 Cyril Mamba, Times of Swaziland, July 2015

36 Joseph Zulu (22.08.2012) SWADEPA supports 2013 elections; Swaziland Observer <http://www.observer.org.sz/index.php?news=42233>

37 ibid

38 Supra-note 17 (2013- page 100)

Section II – Swaziland; a Ticking Time Bomb? Implications, Impact and Consequences of Political Conflict and Electoral System

In Swaziland, the electoral system has been the bone of contention which has manifested at many different forms and levels. The country held elections under multi-party democracy only in 1967 and 1972; and beyond these periods, elections are held under the Tinkhundla system even post the enactment of the Constitution in 2005 which has a somewhat progressive bill of rights guaranteeing civil and political rights³⁹. The developments post the enactment of the constitution somehow show that there were expectations on the constitution to usher in democratic elections and open space for multi-party. However, with the constitution proving otherwise; there has been growing frustration on the ground from the pro-democracy movement. This has pushed a fraction of the pro-democracy movement to allegedly employ a militant approach in a bid to demand for multi-party democracy; and the state has responded with criminalising and intimidating dissenting voices and groups. Some have capitalised on the progressive provisions of the constitution to test its veracity in court (to be explored in the following chapter). Since the current electoral system adopts “*First Past the Post*” system; it has failed to accommodate gender equality in parliament and other decision making positions. Efforts for civic awareness by advocacy groups have not been met with the necessary cooperation by the state; as civic awareness was made the preserve of the electoral management body – the Elections and Boundaries Commission. Based on the foregoing; many citizens have since chosen to withdraw their vote which pushed government to induce participation and muzzle dissent at all levels of society.

2.1 Political Parties and the State: State Political Hegemony

The enactment of the 2005 Constitution gave false hope for a democratic culture and practice in Swaziland; which saw mounting protests against the Tinkhundla system of governance especially in the 2008 election. With the lack of recognition for political parties; workers’ unions have taken up the space in the quest for democracy benefiting from the protection afforded by domestic instruments, international Conventions and the International Labour Organisation. For the labour movement, the struggle for improved socio-economic rights of workers is inextricably linked to the political conflict⁴⁰. In 2008, the labour movement and proscribed political parties took to the street on a protest march to demand multi-party democracy. The series of marches were then followed by a bomb blast in the wake of the election polls on 19 September 2008 killing two people on the spot, one injury and another one fleeing the scene unharmed in what was said to be a premature explosion of a bomb which was placed at a road bridge leading to the King’s palace at Lozitha⁴¹. After the 1998 elections, a similar situation had occurred where a bomb planted at the Deputy Prime Minister’s office killed a security guard. The state associated the bombings with PUDEMO, which led to the banning of PUDEMO in November 2008 and associated organisations, namely, the Swaziland Solidarity Network, Swaziland Youth Congress (PUDEMO Youth wing), and the Swaziland People’s Liberation Army. The PUDEMO manifesto written in 1985; and inspired by the African National Congress Freedom Charter clearly states the peaceful intentions of the party stating that PUDEMO believed in peaceful negotiations. Nonetheless, a lot has changed in the political landscape of Swaziland; and such change brings about certain pressures which have ramifications on the social structure and philosophy of [political] institutions.

The African United Democratic Party (AUDP) was in 2009 engaged in a robust resource mobilisation allegedly to implement their strategic plan of action to democratise Swaziland. The AUDP surfaced

39 Section 25: The Protection of freedom of association and assembly

40 Dlamini L. S. (2013, page 33): Democracy and Political Participation in Swaziland

41 Swaziland: Bomb blast kills two; accessed at IRIN Africa - <http://www.irinnews.org>

around 2006; though it claims to have been formed in 1982⁴². Though the party reportedly recognises the current establishment and seek to use the current structures (Parliament, Constitution and Tinkhundla centres) to influence political change⁴³, it did not declare its participation in the 2013 election. There had also been reports that AUDP had wanted to purchase arms; however, the party has disputed those reports. In fact, AUDP holds that it is committed to transform the unconstitutional monarchical regime of Swaziland into a constitutional multiparty democracy and/or liberal state through educating the masses and infiltrating the regime structures with an aim to influence them to conform to democratic values⁴⁴.

SWADEPA public statement to participate in the 2013 election conceived as a declaration of political rivalry by the state. Though the EBC had insisted that it welcomes every citizen of the country to participate in the election only through the set channels [individual merit], and SWADEPA took up that challenge; the state soon unleashed intimidation tactics. Police started scrutinising election nominees suspected to be card holding members of the party. The party's Secretary General, Archie Sayed disclosed that they decided not to publicise the full list of its members who made it through to the nomination to contest in the primary elections to be held on August 24 for fear of setting the candidates up against security personnel⁴⁵.

2.2 The Electorate and the State

While fear of victimisation still engulfs the general populace, especially those residing in rural Swaziland where traditional power and respect of and deference to the King and Monarchy have been strongest⁴⁶; their expression of dissatisfaction on the country elections has been largely expressed by the low voter turn-out over the years. This is further echoed by EISA election observation report, 2008 as it states that, "the large numbers of Swazis heeded the boycott call and thereby signalled their disenchantment with the current Constitutional dispensation". Over and above heeding the call to boycott, efforts by civic society organisations conducting civic education on the Constitution have contributed as citizens begin to appreciate the linkages between their socio-economic situations with political and governance issues⁴⁷. Elections boycott has also emanated based on electorates preferences over certain candidates who might not have made into the elections race. The 2008 elections for instance, saw about one hundred and fifty electorates resorting to boycott the election at Ngudzeni community after their preferred candidate, Mr Dumisani Ndlangamandla, was refused participation for failure to produce a letter from his employees allowing him to stand for elections⁴⁸. The residents expressed displeasure on the electoral system as they felt that their democratic right to freely choose their preferred Member of Parliament was being trampled upon⁴⁹. This case is a presentation of what generally happens in some constituencies in the country contributing to the low voter turn-out.

There are contestations and secrecy on the voter turn-out, especially for the 2013 national election as the EBC has not released the voter turn-out or relevant data for the elections. The official voter turn-out as reported by the EBC stood at 411 084; while local pro-democracy movements claim that the numbers were less. The Swaziland Democratic Front claims it was not more than 80 000, and the Swaziland

42 <http://audp.org/about-us/>

43 Manqoba Nxumalo: AUDP's E55m request to make SD democratic, Times of Swaziland 18 December 2009

44 Interview with AUDP

45 Welcome Dlamini: The Times of Swaziland (12 August, 2013) <http://www.times.co.sz>.

46 Lomcebo Dlamini (2013) Democracy and Political Participation in Swaziland

47 *ibid*

48 Richard Rooney (18/08/2008) Swazi Protest over Bent Elections; <http://swazimedia.blogspot.com>; and the Times of Swaziland 15/08/2008

49 *ibid*

Communists Party reveals that it stood at 100 000⁵⁰. The official publicised voter turn-out in the 2008 secondary election was 47.4% which is lower than half the number of registered eligible voters. On the 3rd August, 2015, almost two years after the election, the Minister of Justice and Constitutional Affairs has offered that there has been infighting within the EBC, which has affected their work and the release of the elections data⁵¹.

2.3 Electoral System and its Impact on Gender Parities

For the 2008 elections, Swaziland managed with only 22%⁵² women in parliament. The 2013 national elections saw less than 25% women nominated from their constituencies with a winning by one woman of the fifty-five constituencies. Consequently, the 2013 parliament comprise of only 6% women⁵³. There are varied reasons that contribute to the low levels of women in political positions. The electoral system, political culture, culture and tradition have negative ramifications on women political participation. The *First-Past-the-Post* system permits the individual candidate to contest elections on their own right. This system fails to accord a level ground for men and women as the country's political culture has historically featured greater levels of men's representation which has been explained by the strong cultural affinity for men. It also opens for corruption and vote buying by those who can afford⁵⁴, which places women at a disadvantage.

Campaigning in Swaziland is only opened after the primary elections and candidates campaign individually and collectively. Collective campaigns are organised and manned by the EBC and the *Chief's Royal kraal*⁵⁵ of each of the winning candidates and all get the opportunity to campaign. Being traditional centres, women are governed by culture and tradition in royal kraal. Culturally, a woman is not allowed to talk to males standing no matter their age, and in the same vain they do not look them in the eye. With these discriminatory and inequality cultural practices, women candidates are disadvantaged as they are not allowed to assert themselves and are forced to assume minority status as culture and tradition dictates. Moreover, some cases of discrimination were meted by electoral officers and chiefs alike; based on adhering to culture and tradition. Mana Mavimbela from Lubulini was refused to stand for elections by a presiding officer for wearing a pair of black jeans and a golf t-shirt. Chief Petros Dvuba of Mpolonjeni in Mbabane called on the nation to "dress properly" and show respect to the "King's national exercise"⁵⁶. On another case, a former member of parliament was ostracised by her Chief for running for elections while she was newly widowed; and this case was resolved by the court that re-instated her⁵⁷.

2.4 The States' Coercive Strategies

To ensure high voter turn-out, or at least high numbers at the registration stage of the election; the state threatens to withhold social services and employment within the civil service for those failing to participate. A study by Senamile Dlamini⁵⁸ reveals that some people do go through the process of registration because registration cards are used by government to check if you align yourself with the processes of voting; and that stands as a reflection of your allegiance. Parents and students alike are

50 Ibid; (02/12/2013) SWAZI ELECTION RESULTS NOT RELEASED. <http://swazimedia.blogspot.com>

51 Richard Rooney (07/08/2015) TWO YEARS ON: POLL RESULT NOT KNOWN, <http://swazimedia.blogspot.com>

52 Bongwe Zwane and Katherine Robinson: Southern Africa: Swaziland has the lowest number of women in parliament

53 Ibid

54 Olaleye W. – Traditional Politics Re-Examined: Chiefdom Politics vs Electoral Processes in Swaziland (EISA)

55 A Royal Kraal in this instance is the residence of the Chief

56 Richard Rooney, Woman in Pants banned from Elections; <http://swazimedia.blogspot.com>

57 Ibid

58 Selamile Dlamini (May, 2015) "Political Parties Cause Divisions": Exploring Support for Democracy in Swaziland

threatened with with-holding access to scholarship funds for students wanting to enrol at university⁵⁹. Chiefs play a key role in the process of applying for scholarships; they sign and endorse knowledge of applying candidates and their parents; a similar strategy is utilised for the recruitment of army personnel. As such, individuals who find themselves needing such services from government; are forced to participate in the election process. To subdue campaigns calling for the elections boycotts; the state use draconian laws such as the Suppression of Terrorism Act, 2008 and the Sedition and Subversive Activities Act 1938. The Deputy Chairperson of the EBC told local newspapers that anyone who stands in the way of the elections will face the treason charges⁶⁰, and if convicted of treason the person faces a death penalty⁶¹.

To cultivate civic political participation, the state has employed coercive measures to ensure participation by the masses, as well as ensuring that dissent is demonised. Religion and traditional and or cultural events have been used as tools to maintain relevance for and participation under the system of Tinkhundla governance. The annual national traditional ceremonies (umhlanga- attended by female maidens and lusekwane- attended by male regiments) have served as a means in which political parties and the call for multi-party have been demonised through composed political songs⁶²; and these events have been made compulsory for relevant participants. Some chiefs would impose fines in the form of cattle for maidens and regiments failing to attend. Moreover, with more than 90% of Swaziland subscribing to the Christian religion, the Tinkhundla system of governance finds resonance in strong religious convictions that bear the greater need for hierarchy; as compared to democracy which is based on equality⁶³. Tinkhundla and Christianity philosophy can be traced to Sobhuza II reign. The king saw a vision of what was described to be white settlers coming with the Bible and Money (*Umculu and Indilinga*) and he advised the nation to choose the latter⁶⁴. As such, Swazis do not only view themselves as fortunate to have a king, but also their relationship with the divine God as dependent upon their relationship with the king⁶⁵.

However, the philosophy of Christianity and kinship has not remained without fractures in the Swazi society. An outfit called, Swaziland Concerned Church Leaders (SCCL) has launched a Kairos document which mimics the neighbouring South Africa Kairos Document that challenged the apartheid regime. The document calls for regime change and sees multi-party as a viable solution to the political, social and economic crisis engulfing the country⁶⁶; the SCCL's vision is to offer biblical and theological solutions to the political conflict that has brought division and socio-economic challenges⁶⁷. The SCCL originated from efforts by the Swaziland Coalition of Concerned Civic Organisations (SCCCO) under the leadership of Musa Hlophe and the late Catholic Bishop Ncamiso Ndlovu who had wanted the church to play its role in justice and peace in the country⁶⁸, after having studied regional trends and the church's involvement in mediation and conflict resolution processes. A member of the SCCL holds that it is a fallacy to believe that all churches and or church members in the country subscribe to the religious and kingship philosophy. There is proof when you begin to inspect the ecumenical bodies. There are three ecumenical church bodies in Swaziland; the Council of Swaziland Churches, the League of Churches and the Conference of Swaziland Churches. The Council of Swaziland Churches and its members have taken

59 ibid

60 Richard Rooney (January, 2013) Vote Boycotters Face Treason Charge, <http://swazimedia.blogspot.com>

61 ibid

62 A sample song, sung during the annual Reed Dance Ceremony: *Political parties are dark presences. Political parties set people against each other. Your Majesty, we don't want political parties.* (supra note 58)

63 Selamile Dlamini (May, 2015) "Political Parties Cause Divisions": Exploring Support for Democracy in Swaziland

64 J S M Matsebula, The History Of Swaziland

65 Supra-note 49

66 Welcome Dlamini (15/03/2015), Church Leaders Want Regime Change – Swazi Observer; <http://www.observer.org.sz>

67 Interview with some members of the Swaziland Concerned Church Leaders

68 ibid

up the church's role in justice, peace and reconciliation such that they have a fully-fledged department dedicated to such issues; and these issues emanate from the political conflict⁶⁹. The three Christian umbrella organizations often had a contentious relationship due to differences over matters such as whether churches should take a stand on political problems or the inclusion of traditional beliefs in the church doctrine⁷⁰.

Section III – Electoral Administration, Legal Framework, Institutional Mechanisms for Addressing Electoral Conflict and Violence

The elections process is one trigger of conflict and political violence; often emanating from weakness in the governance of elections, the rules of orderly political competition, and the lack of impartial judiciaries to interpret and adjudicate electoral disputes⁷¹. The benchmarks for a peaceful, free and fair election rest on the credibility and competence of the Elections Management Body (EMB); sound legislative framework detailing mechanics and substantives of the process and institutions responsible to uphold them, and an outline of personnel and their responsibilities. Additional to this, the EMB needs to prepare a comprehensive implementation plan with time-lines⁷². This chapter will focus on these aspects; to access the level of competence and level independence of the EBC, the general legislative framework and the legislative framework governing each stage of the elections process; with a focus on the 2013 national elections in Swaziland. In essence, this chapter seeks to access the level at which the legal framework, electoral administration and institutional framework can spark, manage or prevent electoral conflict.

The 2008 and 2013 elections have some similarities in that both were held under the new constitution of 2005; and 2013 was slightly different in that it saw the promulgation of six new pieces of legislations. These are the Voter Registration Act; the Elections and Boundaries Commission Act; the Elections Act, Parliament Petition Act; Elections Expenses Act; and the Senate Elections Act. These pieces of legislations were passed weeks' prior the primary election; when the election process had already resumed.

A case in the Supreme Court in 2008 between government and members of the pro-democracy movement decided the fate of the Swaziland electoral conflict, cemented the constitutional dilemma and further set the tone for the aforementioned legislations. The Court was approached to determine the tension, if any, between the provisions of sections 25 on one hand, and 79 read with 80 of the Constitution of Swaziland⁷³. The Court pronounced that Section 25 of the constitution does include the right to form and join political parties. It held that section 79 prescribes that individual merit is the qualification for one to be elected or appointed into public office; and further said that there is nothing in the Constitution that debars a member of a political party from entering the political arena as per section 79⁷⁴.

3.1 The Elections and Boundaries Commission (EBC)

The EBC was established through Section 90 of the Swaziland constitution, 2005 and it replaces the

69 ibid

70 <http://www.state.gov> : Swaziland

71 Election-Related Disputes and Political Violence: Strengthening the Role of the African Union in Preventing, Managing and Resolving Conflict (Report of the Panel of the Wise)

72 Cyllah A and Darnolf S: EMBs and Electoral Violence, in Elections worth Dying For? A Selection of Case Studies from Africa

73 Section 25 - grants the right to freedom of association and assembly; Section 79 – legitimises the tinkhundla system of government on individual merit basis; and section 80 – details the architecture of tinkhundla as geographical political organisation (as opposed to political party based)

74 Sithole and Others V. Kingdom of Swaziland and Others (50/08) 2008 SZC 5 view case at www.swazilii.org

Electoral Office which was the elections management body in Swaziland. Election in Swaziland are executed by the Elections and Boundaries Commission Act 2013; which amongst other things; elaborates the functions and powers of the Commission; regulates the conduct of Commissioners and their work; empowers the Commission to make regulations prescribing procedures; and provide for the Secretariat and their functions. The Election Act 2013 governs the operational and administrative aspects of the election processes. These pieces of legislations seek to bring detail and depth to the Constitution and thereby repelling the previous legislations that governed elections in Swaziland.

Electoral management bodies (EMBs) play a critical role in the election process, and their role can determine the political stability or lack of in association with electoral conflict and violence in a country. It has been proven that EMBs that are discredited are incapable of managing a competitive electoral environment, and often find themselves at the centre of the controversy⁷⁵. The credibility of the EMB is vital⁷⁶; this includes issues as competence, professionalism, and independence. Transparency, integrity and honesty are necessary traits for the personnel. The legislative framework of EMBs and those governing elections must conform to permissible standards of elections management and administration down to its operational level. Its size, composition, mandate and tenure must be determined through an inclusive and transparent process⁷⁷.

The legislative framework in Swaziland does not guarantee the accountability and transparency of the EBC which further jeopardise the integrity and professionalism of the institution and by extension its personnel. Moreover, the level of competence is left doubtful as the constitution was disregarded in the appointment of the personnel as some of the Commissioners do not meet the qualification as dictated by the Constitution. The Swaziland Coalition of Concerned Civic Organisations (SCCCO) took government to court over the unconstitutional appointment of Chief Gija – current EBC Chairperson, who is also an Electrical Engineer by qualification⁷⁸. According to section 90 (6) of the Constitution; EBC Commissioner must possess the qualifications of a Judge of the superior courts or be persons of high moral character, proven integrity, relevant experience and demonstrable competence in conduct of public affairs. The EBC managing the 2008 and 2013 elections had only one of the five appointed Commissioners with a legal background⁷⁹. Further, the SCCC0 argued that integrity, moral character, competence should be expected of someone with relevant experience. However, this case was dismissed by the courts on the basis that the SCCC0 is not a legal person⁸⁰. The manner in which the EBC is appointed is neither inclusive nor open to other stakeholders owing to the prevailing political and electoral system. The EBC is appointed by the King on advice of the Judicial Service Commission (JSC)⁸¹, and the JSC is also appointed by the King⁸²; which brings doubt on its capability to advise the King as well as his receptiveness to their advice.

Moreover; the EBC Act 2013 confers Commissioners of the EBC with a non-liability clause as it holds that; *"A member of the Commission is not liable for anything done or omitted to be done or spoken in good faith and has the same protection and privilege in the case of any action or suit brought against that member for anything done or omitted in the honest execution of duty, as is by law given to acts done or words spoken*

75 Supra note 71

76 ibid

77 Supra note 69

78 SADC – Lawyers Association (2013) Swaziland Elections Observation Mission Report

79 ibid

80 Richard Rooney: SWAZI ELECTIONS COURT CASE BEGINS at <http://swazimedia.blogspot.com> and see also SADC Lawyers Association, 2014 Swaziland Elections Observation Mission Report

81 Section 90 (2) of the Constitution, Swaziland.

82 Section 159 (1)

by a judge of the High Court in the exercise of a judicial function"⁸³. This clause is very ambiguous and has a potential to curtail cases brought against the EBC. Amongst other things, the EBC is charged with a duty to submit an elections report to the Minister responsible, detailing the general conduct of the election; irregularities and abnormalities; disputes and results thereof; and any observed peculiarities⁸⁴. However, almost two years post the 2013 elections; the EBC has not submitted any report and has failed to publicise results. With the reported 'infighting' within the EBC, the law is rather silent on the deadline of the election report publication. As such, the EBC announced winners of the 55 constituencies in the House of Assembly promptly after secondary elections in 20 September, 2013; but only gave number of votes cast for 45 of the winning candidates of the 55 constituencies. To date, there are no figures given for the losing candidates in any of the constituencies or the number of voters taking part in the election.

There were a number of various cases reported with EBC and the courts, pointing to anomalies in the conduct of the elections by the EBC (**See *Nkaba scenario at the end of the chapter***) as well as cases reported against candidates after the primary election. In some of these cases issues of the newly enacted election legislations were quoted; where applicants were seeking an interdict of the secondary elections. In the eve of the secondary elections; an ex tempore ruling dismissed five such cases with costs⁸⁵. The Parliament Petition Act (PPA), 2013 grants election complainants the right to submit petitions to the High Court within twenty-one days from the publication of results⁸⁶, and to appeal with the Supreme Court within thirty-one days in accordance with section 105 (1) of the constitution. Much as the Act provides for alternatives to challenge appointment of a winning candidates; parliamentarian, senate appointment, *indvuna yenkhundla* and *bucopho*⁸⁷; it however has generic challenges. It gives provision that results, or the winning candidate will not be affected even when there was failure to comply with the Senate Act and the Elections Act if the Court is satisfied that non-compliance to these electoral laws did not have an impact on the results⁸⁸.

Cases of discrimination based on cultural nationalism were observed in the 2013 election. While section 5 (2) (b) of the EBC Act holds that no member of the commission shall support or oppose any candidate participating in the election; a presiding officer for Lusabeni Royal Kraal under Lubulini Constituency opposed the nomination of Mana Mavimbela to run for the member of parliament seat because she was wearing pants. The Swaziland Young Women's Network (SYOWN), a Non-governmental organisation working on young women's rights assisted Mana to challenge the matter in court. She subsequently won and was reinstated as a candidate⁸⁹. A similar incident was witnessed at Ndvwabangeni, where Fakazile Luhlanga was denied an opportunity to nominate a candidate for wearing pants⁹⁰. This demonstrates the influence of cultural nationalism in Swazi politics on one hand and the lack of training of election officers in the country; who are not conversant about the electoral laws and rights governing political participation.

3.2 Voter Registration

Voter registration was introduced by the Election Order 1992 which was eventually incorporated into the Constitution of 2005. Ideally the Constitution is to be understood as the backbone of, and set the tone for

83 Section 12, Election and Boundaries Commission Act, 2013

84 Section 92 (1) (a) – (e)

85 Winile Masinga (30/09/2013), Election Observers Slam new Electoral laws; Swazi Observer

86 Section 9 (1) of the Parliament Petition Act

87 Bucopho is an elected member who is the chiefdom authority under the chairpersonship of the Indvuna yenkhundla. Indvuna yenkhundla is an elected constituency headman.

88 Section 16 of the Parliament Petition Act, 2013

89 Mbongiseni Ndzimandze (24/08/2013), MP Elections Stopped Mana Wins, Times of Swaziland <http://www.times.co.sz/news>

90 SADC Lawyers Association, 2014 Swaziland Elections Observation Mission Report

legislations governing elections in the country. Voter registration process is governed by a set of guiding principles without which the process can easily become a flashpoint if not conducted properly. Critical amongst the guidelines are integrity – the registration process is free from manipulation; inclusiveness – clear criteria for eligibility; accuracy – ensuring validity and correctness; and accountability and transparency⁹¹.

The Registration Act (Section 13 (2))⁹² opens room for manipulation, and is also in conflict with the Constitution as it proposes a different standard of admission for registration of eligible voters. It proposes that a person must be resident in the constituency for a period of three months; while the Constitution recognises a resident in constituency for a period of five years⁹³. Moreover, to proof eligibility for registration of electorates; chiefdom authorities will choose a *representative* who will work with the EBC registration officers to proof the eligibility of persons applying for registration as voters. Consequently, electorates and potential candidates alike not eligible to register and vote in other constituencies end up being able to, only if they have the support of the representative chosen by that particular Chiefdom authorities. This provides room for manipulation by interested parties (electorates, potential candidates, and representatives/agents) who can bribe for registration.

Voters register is produced for validation by the electorates; wherein the Voter Registration Act introduces a peculiar procedure of verification, and grant a right to other registered persons to cease the effect of corrections of another registered electorate. A registered voter may object the retention, restoration or addition of another electorate; as well as object to the removal and corrections of a person's name or registration details in the register⁹⁴. Section 17 and 19 provides for a grievance procedure; that an aggrieved person must approach the registration officer to effect 'corrections' within seven days. If not resolved the matter can be escalated to the EBC and later to the High Court; however, the High Court invokes its appellant jurisdiction in this instance.

Nonetheless, EBC is obliged to make available the voter register to the public at least one month before every direct election (Section 30 (2)). The Act also permits that the public can print the voter's register after a payment of a fee. This guarantees accountability and transparency of the EBC on the voter's register notwithstanding the aforesaid challenges. Moreover, migrant and diaspora Swazis are accommodated to participate in the registration process through section 16; which motivates that they register at the nearest embassy or mission in their host country. However, subsection (1) carries the condition of feasibility which has a potential to exclude some individuals the right to vote.

3.3 Candidates Nominations and Primary Elections

Nominations are done at chiefdom level. The 2008 election permitted nomination to a maximum of ten (10) nominees to be seconded by fifteen registered voters each. While Elections Act 2013; permits a maximum of twenty (20) nominees seconded by ten (10) registered voters. Nomination is through a show of hands; and the electoral officer points individuals with their hands up from the congregants. Often, the show of hands usually exceeds the stipulated number of nominees. This has disenfranchised the electorates in some constituencies who are left out of putting forward their preferred nominees.

91 Astrid Evrensel (2010: 10 -19) Voter Registration in Africa: A comparative Analysis

92 Section 13 (2) of the Registration Act: *In the case of registration at Umphakatsi, registration shall take place in the presence of the representatives of the Umphakatsi selected from among the Chief's Council who may, if required by the registration officer, provide all relevant information regarding the eligibility of persons applying for registration as voters.*

93 Voter Registration Act, section 15 (1) (a) in conflict with Swaziland Constitution 2006, section 88 (3)

94 Voter Registration Act, section 17

Campaigning is prohibited between the nomination and primary election stage⁹⁵. The theory behind this, as per the Constitution, is that the candidates are members of the local community and the electorates already know them and what they stand for. However, this does not suggest that candidates do not break the law. The EBC Elections report of 2008 offers that there were notable corrupt practices by some candidates resulting to offenses like “treating”, undue influence, and bribery and impersonating⁹⁶. Treating was characterised as “entertaining voters for the purposes of influencing their decision by giving them food, money and drinks. Other voters were reportedly bribed with offers of money, favours, lucrative promises, gifts, and loans. Some candidates resorted to the use of undue influence by, threatening, using force, violence and intimidation⁹⁷.

During the 2008 election; the EBC admitted to many errors during the primary election as a result of unpreparedness, improper planning, limited time in between activities of the election process and low budget allocated for the election. They were faced with grave challenges as having nominees’ names and pictures being mixed up in the ballot papers, running out of ballot papers in some chiefdoms – such that at Gundvuni chiefdom the voters rioted; and EBCs inability to comprehensively carry out activities⁹⁸. These resulted to EBC being faced with over one hundred complaints and court cases⁹⁹.

3.4 Campaigning

Swaziland’s Tinkhundla electoral system is similar to that of the Philippines municipal elections which are not political party based, instead are organised around geographic localities¹⁰⁰; where individual candidates consider themselves as the delegate of particular geographic areas beholden to the interests of their local electorates. These political systems provide an appropriate context in which vote buying is a viable electoral strategy operating through traditional institutions of reciprocity. Constituency electorates’ interests are known and well-articulated by any potential local candidate; which then eliminates the competitiveness. Hence, candidates are then forced to resort to other strategies as vote buying, coercion, intimidation, and other manipulation strategies to better position themselves against other constituency competitors. The consent of the governed becomes compromised as it is no-longer based on best policy choice; but rather the individual candidate strategy employed and how it resonates with the people of that geographic area. Based on the limited time between primary and secondary elections (usually 1 month) - a period wherein campaigning is permitted in Swaziland; the realities have been that interested potential candidates start campaigning informally years before the election year through engaging in charitable work such as provision of food parcels, basic community necessities – infra structure development e.g. water and electricity that are soon abandoned.

The Elections Expenses Act which purportedly addresses such issues as vote buying has its own generic challenges to addressing some of these issues. The Act calls for transparency and accountability for election expenses on the part of the candidate, as well as sets the limit on election expenditure. However, the state does not provide funding to election candidates; and candidates use their private finances for the campaigns. Through the civil society submissions to parliament during the debate of this bill in 2013; the representatives felt the state is imposing itself on matters that are not of public interests, and will have challenges to monitor the legitimacy of such funds and or their declaration. The Act was considered unfair on the candidates as it imposes responsibilities to the declaring party –

95 Swaziland Constitution, Section 87 (5), and the Elections Expenses Act 2013

96 Election and Boundaries Commission Election Report, 2008, Conduct of Elections in Swaziland

97 ibid

98 Ibid

99 ibid

100 Stuki Khemani 2013, Buying Votes Vs. Supplying Public Services: Political Incentives to Under-invest in Pro-poor Policies – World Bank, Policy Research Working Paper

book keeping, opening a separate account, declaration of funds etc. The Act fails to take account of the reality on the ground i.e. *“illegal or charitable campaigning”* that occurs way before the election’s process period. Furthermore, the Act disallows funding from foreign organisations to candidates. There was a general feeling from SWADEPA that the Act is targeting them since they had received funding from a foreign institution to support their programs on democracy and human rights. The Act also affects CSO with a mandate on election and voter education. The EBC has been made the sole custodian for civic education and any organisation wishing to conduct activities shall apply and be permitted by the EBC¹⁰¹. The notion of limiting elections expenditure becomes interesting when viewed based on the American Supreme Court ruling on *Buckley v. Valeo*¹⁰² where the court ruled that spending money to influence elections is a form of constitutionally protected free speech. The ruling was in consideration that; *“A restriction on the amount of money a person or group can spend on political communication during a campaign necessarily reduces the quantity of expression by restricting the number of issues discussed, the depth of their exploration, and the size of the audience reached. This is because virtually every means of communicating ideas in today’s mass society requires the expenditure of money. The distribution of the humblest handbill or leaflet entails printing, paper, and circulation costs. Speeches and rallies generally necessitate hiring a hall and publicizing the event. The electorate’s increasing dependence on television, radio, and other mass media for news and information has made these expensive modes of communication indispensable instruments of effective political speech.”*

However, Swaziland’s media coverage for elections campaigns is only limited to print media; even then, it is only candidates who are knowledgeable on means of exploiting this medium of communication. This also compounded by other challenges such as the limited number of readership. A survey of the only two local newspapers in Swaziland revealed that the *Times of Swaziland* boast of a readership of approximately twenty-five thousand people a day¹⁰³; while the *Observer* reaches approximately ten thousand readers a day¹⁰⁴ against a population of six hundred thousand eligible voters. For the 2008 and 2013 elections; the two newspapers opened space for parliamentarians to profile their achievements during re-election period. This might be viewed as an innocent review by local media, but nonetheless avails an opportunity for parliamentarians to campaign for re-election. There is currently no provision for candidates to campaign on radio and television; and as such these mediums have been utilised by the EBC to disseminate information and conduct awareness rising on elections. The Public Service Announcement Bill, 2012 poses danger than progress to limit the utilisation of media by citizens and candidates alike. The Bill requires that individuals must consult and get the permission of their Chiefs if they want to utilise the media as a communication tool. With the political landscape and role of the chiefs in Swaziland; there is potential of suppression if the Bill were to be enacted as is on other candidates who might not be preferred candidates of that particular chief consulted. Aside from the limitations on the communication tools during elections campaign; there is limit on campaign messages as the Elections Act, 2013 states that candidates can only campaign on socio-economic issues; and not political issues.

Electoral Administration & Institutional Mechanism to Address Conflict: A Case of Nkaba Constituency

Nkaba is both a constituency and chiefdom in the Northern Hhohho region. As a constituency, it is made up of five chiefdoms; namely, Malanti, Ekuvinjelweni, Nkaba, Mdzimba and Jubukweni chiefdoms. For the secondary elections; five candidates from each chiefdom competed for the

101 Elections Expenses Act, Section 8 (1)

102 Senator Buckley (C – NY), presidential candidate Eugene McCarthy (D – MN) and others filed a suit against the Secretary of the Senate and ex officio member of the Federal Elections Commission, Francis Valeo

103 Interview with Times of Swaziland journalist – 07 October, 2015

104 Interview with the Editor, Swaziland Observer – 07 October, 2015

parliamentary seat.

The Parliament Petition Act, 2013 grants complainants the right to challenge, through a petition in court, the appointment and or election of a candidate into parliament within 21 days after publication of the winning candidates. Four candidates from Nkaba, Malanti, Mdzimba and Ekuvinjelweni chiefdoms met and wrote a complaint to EBC. All four complainants had not signed admission of results as stipulated by the law. The complaint was lodged against EBC and the winning Jubukweni chiefdom candidate who is the current member of parliament of Nkaba constituency. For the winning candidate; the complaints were boarding on alleged vote buying, undue influence, and campaigning prior the election permitted campaign period as well as the specific violation of section 7 (2) (b), of the Elections Expenses Act which holds that a candidate shall not receive funds from an organisation outside of Swaziland. The complaint letter which was written to EBC states that the candidate went to South Africa on or around 16 – 17 September, 2013 to collect funds, which he out-rightly pronounced during his campaign efforts in the presence of the EBC. The analyses of the alleged complaints on the candidate were in violation of the Elections Expenses Act 2013 and the Elections Act, 2013.

On the same complaint letter; the EBC was alleged to have failed in their duty to administer a free and fair election. The EBC was said to have failed to act on a case reported by the Nkaba chiefdom candidate on the 18th September, 2013 against the winning candidate. Further, the counting Presiding Officer excused an accredited counting agent for the Malanti candidate who was away from the counting at the time. The Presiding Officer had reportedly informed all stakeholders as to which polling station is each ballot box coming from, but omitted declaring the number of voter turn-out per polling station before the emptying boxes to count for verification purposes. When the agent of the Malanti candidate questioned the omission of declaring the turn-out per polling station; he was excused with claims that he was interrupting the counting process.

The complaints directed towards the EBC were as follows:

- EBC failed to administer a free and fair election;*
- Portrayed favouritism and biasness for the winning candidate, for their failure to act on reported complaints against the winning candidate, and their inaction even when the candidate promised money to electorates during the EBC organised campaigns.*
- Unfairly excusing an agent of one candidate who had cautioned EBC officers on procedure during the counting;*
- And the omission of counting procedure even after caution; erodes confidence on the authenticity of the result.*

The 'prayer' of the four parliamentary candidates to the EBC was to have the results declared null and void. The EBC never adhered to the prayer, instead continued to publish the candidate as a winner of the parliamentary election. EBC advised the complainants to approach the Courts, as per the Parliament Petition Act. The EBC Legal Advisor strongly cautioned on the chances of winning the case, making reference to the five previous cases that were dismissed by the Courts in the eve of the secondary elections whose merits were different from the Nkaba case; and further offering that the court's decision in these cases will assist aggrieved candidates to learn something of the environment and also keep in mind the state's interests to pronounce the elections as free and fair and decide if they still want to lose their resources and time on this matter. With that caution, the complainants were discouraged taking the matter to the courts; feeling dispirited and worn out. Through the Parliament Petition Act 2013, the aggrieved candidates and any citizen has room to challenge the election of the winning candidate. However, the biggest concern as revealed by the interviewee is the independence and impartiality of the judiciary in Swaziland; as well as the risk of lengthy petitions that may take up to years to conclude.

Prior to the commencement of the election process, the Nkaba and Jubukweni chiefdoms had already been in dialogue a subject of which was the winning candidate. In April 15 and 24, the Nkaba chiefdom wrote a letter to the Jubekweni chiefdom raising concerns that the eventual parliamentary election winner of Jubukweni was going around the constituency mapping people's needs and providing assistance. The letter states that the candidate started the "charity initiative" in February 2013; and the Nkaba chiefdom is convinced that this is an election campaign strategy. These letters led to a meeting between the two chiefdom authorities, which resolved that the Jubukweni chiefdom will caution their subject against acting irresponsibly and invading other chiefdoms without the knowledge or permission of the relevant authorities of those chiefdoms.

The contested Member of Parliament from the Nkaba constituency is still serving, and was successfully sworn in with the rest of his counterparts.

Section IV - Key Factors for Preventing Electoral Related Violence and Strengthening Early Warning Mechanisms

This chapter will focus on exploring the relationship between election and violence; and find ways to prevent election-related conflict and violence through the mapping of Early Warning Mechanisms (EWM) for Swaziland. As Hove Sheunesu points out that the early warning system serves as a pro-active rather than reactive measure¹⁰⁵. It cultivates the capacity to predict certain patterns of overt political or electoral behaviour that may potentially lead to violence; and as such involves the collection and analysis of information about potential and actual conflict situations, and the provision of policy options to actors at all levels – national, regional and international¹⁰⁶. The preceding chapters have in some ways mapped out the violence-producing propensities through which violence-reducing propensities can be deduced.

As earlier outlined, Swaziland has not yet experienced violence to alarming degrees as other jurisdictions where it led to displacements and massive loss of life. Often experienced is political conflict which leads to electoral conflict with subtle resultants. Nonetheless, early warning mechanisms need to be established to defuse the undoubtedly volatile situation. As part of the preventative and early warning mechanisms; Swaziland will need to strengthen or have in place the following systems:

- i) Information gathering in respect of the indicators outlined below
- ii) Development of a conflict typology database to enable timely strategic response
- iii) Prioritise hotspot stages within the electoral cycle that require urgent attention to mitigate potential problems.
- iv) Through the involvement of diplomatic bodies; identify technical gaps and the overall political climate

Information Gathering: for the EWM to comprehensively respond to the situation in Swaziland; it needs to be alive to the baseline factors as highlighted in the preceding chapters. These are political stability and security, judicial, and to a certain degree social and economic indicators; and ensuring that all these factors guarantees conflict and violence-reducing propensities. The effectiveness of the EWM depends on the accuracy of information; therefore, national aggregated data must be supplemented by communities' data based on their local meaning and understanding of peace and violence generating

¹⁰⁵ Sheunesu Hove (2013), Preventing Violence in Future Elections: Moving Towards an Early Warning System for Zimbabwe, Journal of Peace-building and Development

¹⁰⁶ ibid

factors; and goes further to agree on benchmarks of progress or success¹⁰⁷. Information gathering facilitates proper security planning and easily prescribe security mechanisms and tools suitable for security risk discovered¹⁰⁸.

Political Stability and Security Indicators: political conflict is a threat to political stability and security. For purposes of this indicator; there is need to monitor the political climate and technical aspects of the electoral process which should be in line with building trust and confidence on the institutions and policies that govern elections amongst the voters, candidates and other stakeholders. It encompasses variables that are a threat to political stability and security. In this case, the political unrest and conflict is manifests through the politically motivated arrests, political persecution, unwarranted restrictions on rights that warrants democratic election values and principles i.e. freedom of expression, association and assembly - which has been facilitated through amongst other things closing community access for some political entities and the fact that some have been proscribed. This has amounted to denial of political rights and exclusion of political parties in elections, and further disenfranchised the electorates. As such, legislations like the Suppression of Terrorism Act, 2008 and the Public Order Act 1963 and others which negatively impact on the rights as mentioned above need to be amended. With such glaring conflict indicators; Swaziland requires assistance in levelling the ground for socio-political inclusion and popular participation of all sectors of eligible voters (individual and political parties' candidates) especially because elections are considered not only as a human right but also a means of legitimate succession. To ensure security in the election process as well as inclusion of every electorate in all the sectors of the political spectrum; reference to regional and international law such as the SADC Principles and Guidelines Governing Democratic Election in Africa, NEPAD Declaration on Democracy, Political, Economic and Corporate Governance, AU Declaration on the Principles Governing Democratic Elections in Africa, African Charter on Democracy, Elections and Governance in Africa; becomes necessary in a bid to align the national legislative framework. This is critically relevant especially when the local legal framework is feeble and or contested as is the case in Swaziland. Furthermore, the strengthening of institutions that implement and monitors compliance of the electoral law needs to be in place to manage the elections and in a position to fairly dispense justice.

Judicial Indicators: the legal protection - enforcing the respect and promotion of individual rights are the responsibility of the courts and other accountability institutions in place in that country. Aside from the Courts, Swaziland has a Human Rights and Public Administration Commission; and so far, has no Elections Courts though the EBC 2008 Election Report suggested the need to have this institution. Judicial processes are preferred mechanisms to dispute resolutions, and have the ability to diffuse the escalation of violence in elections if correctly handled. However, courts can be able to play that role if they have the capacity to dispense their role. Capacity in this instance is in two folds; one being properly resourced in human capital in both number and skills, and are capable of dispensing fair and timely justice especially because time is of essence in elections. It is paramount that judicial institutions retain independence – there must be free from political interference both in practice and also demonstrated by legislations governing such institutions. They must be capable of adhering to equality before the law and persecute offenders regardless of their political affiliation or status in society. Attached to this judicial indicator is the election legislative framework which must adhere to democratic election values and principles. An “unjust” legislative framework amounts to unjust [justice] dispensation¹⁰⁹. This point goes back to the one made above that local legislative framework must be in-sync with regional and international instruments governing election or at least not violently opposed. Having enacted six electoral laws in 2013; Swaziland will need to ascertain if these laws are first and for most not in

¹⁰⁷ *ibid*

¹⁰⁸ Jeff Fischer, February, 2002: Election Violence and Prevention – A strategy for Study and Prevention, IFES

¹⁰⁹ A just law is a man-made code that squares with the moral law, while unjust law is a code that is out of harmony with the moral law

conflict with the constitution and then the regional and international instruments governing elections to minimise or avoid electoral conflict, confusion and dissatisfaction on legal judgements.

Socio-Economic Indicators: the main factor coming into play under this indicator is discrimination. Swaziland is a non-party state; however, that does not suggest that there are no socio-political groups. As illustrated in the preceding discussions; there exist different camps which can be classified as the conservatives, political parties or the pro-democracy movement, “neutral citizens”, and the state’s machinery i.e. security forces, chiefs and courts. During election period, the frictions amongst these groups become palpable and further compounded by discriminatory legislations and practices meted by security forces and institutions involved in the election process i.e. chiefs and electoral officers. Political neutrality is a very critical component for institutions and officers managing elections. It dispels feelings of discrimination, unequal treatment perceived or real and ensures free and fair election. In the 2013 election especially, tensions amongst political parties were at pick owing to the decision by SWADEPA declaring its interests in participating in the election under the tinkhundla electoral system. Unsure of the interests of political parties announcing their participation; security forces suspicions were triggered causing undue frictions. On the other hand, PUDEMO was clearly not pleased with SWADEPA’s participation in the election; deduced from members of party’s hate speech. A deeper analysis of the group dynamics and interactions towards minimising potential violent outbreaks usually emanating from power dominance and or struggles is pivotal.

Gender has also served as a basis for discrimination based on the appreciation of cultural – traditional nationalism in election. As earlier alluded to; women find themselves being systematically excluded and discriminated against as candidates in political representation as they assume minority status. Compounding this issue; is their minority economic status that plays a major role in determining candidate’s chances of winning the elections. Election campaigns are expensive in any given jurisdiction; even worse in the Swaziland scenario when considering that candidates personally fund their campaigns and issues related to vote buying and pre-elections campaigns. The First Past the Post electoral system becomes an additional factor. While the Elections Expenses Act, 2013 makes attempts at deterring vote buying, and the use of money to induce influence on voters; the monitoring system proposed by the Act is weak in curbing pre-elections as it only focuses on the election campaign period.

Development of a Conflict Typology Database: while conflict often occurs as a result of a clash of interests in the relationship between parties, either because they pursuing opposing or incompatible goals or simply intolerance; there is however more complex variables that needs to be monitored, recorded and analysed. The use of information gathered becomes critical in this stage; where an idea of regular variables discovered can then be adapted to the study conflict typologies in order to come up with counter strategies and contingency plans. Megan Reif states that there are five essential dimensions to constitute an incident [conflict or violence]; namely, perpetrators/participants, targets/victims, designation of the type of violence i.e. violation of the law or an action, geographic/spatial dimension, and time¹¹⁰. Conflict and violence are dynamic processes that can otherwise be studied through the application of these dimensions to the different causality and impact variables. This enables analysts to focus not only on lethal resultants or impact of violence and conflict as it were, but also attention to non-lethal results as coercion and psychological abuse.

The study of conflict typologies enables Election Management Bodies to develop counter strategies to avoid or minimise conflict and extinguish violence. The strategic plan needs to be accompanied by an operational plan that stipulates the costs in terms of human resources, finances and propose structures

110 Megan Reif, Making Democracy Safe – A Typology of Election – Related Violence: An Event Based Approach to Political Violence from Precipitating Offenses to Emergent Lethality

and institutions. In some cases, policies need to be developed and or amended as accountability and preventative measures to facilitate redress on victims by punishing and deterring offenders. With this election conflict prevention measure in place; external stakeholders have room for intervention and provide technical and financial assistance where required. It further assists the EMB long term as it improves efficiency and in turn builds its integrity and credibility to the electorates.

Identification of Electoral Conflict Hotspots within the Election Cycle: elections are a process than an event, hence some stages within the electoral cycle presents opportunity for conflict in different degrees and severity. For Swaziland, conflicts situations are most rampant during the primary election and campaign periods. This is not to suggest that the other stages of the cycle are calm. Critically, as observed with the reported cases in courts and with the EBC; the timing in between each stage of the election needs to be revisited taking in stock the fact that the EBC learnt that the period allocated in between each stage of the elections has implication on the preparedness of the EBC on one end; and the time available to fairly resolve arising disputes or conflicts and other eventualities that compromised the credibility of the election results. As it stands, the EBC has failed to publicise comprehensive results of the election stating not only the winners; but also, the number of votes against the winning and losing candidates, voter turn-out at each stage of the election – voters register, primary and secondary election voter-out; possibly due to the many contested winning candidates. It is therefore, imperative to know at which stages of the election cycle are conflicts likely to arise; and allow sufficient time to honestly deal with those issues; avoid a deadlock of unresolved cases in between the stages of the cycle; and also, to allow the planning and implementation of incident mitigation strategies.

Identification of Technical Gaps: proper planning along the three stages of an election - pre-election, during and post-election allows for honest introspection by the EMB in the identification of technical gaps and challenges. Without the elections report of the 2013 election; it seems plausible to believe that the post-election phase in Swaziland has been ignored. This closes out opportunities for improvement and the possibility of intervention by external stakeholders such as the international community and local civil society. International actors constitute a vital part of electoral management in Africa by mobilising funds, administrative and technical expertise as well as share experiences of democracy building efforts¹¹¹. The relationship between EBC and local civil society needs to be improved, in appreciation of their contribution to be accorded with a partner status.

Section V – Conclusion and Recommendations

Conclusion

This chapter has argued that violence exists beyond the immediate realm of the physical and the tangible; it certainly enters into the emotional and the political realms of social life. The tinkhundla system of government is an institutionalised form of social subordination and political control; and is a driver of symbolic violence. 'Soft control' is tactically employed by the state, particularly through the use of law, cultural tradition and ideological deception¹¹²; as proven in section I & II where even the electoral laws and the constitution of the country further entrenches it as detailed in section III. It inter-alia explored how this system has further produced unjust practices in the society; now meted by the state against certain groupings and the general citizenry; as well as the citizens against each other.

¹¹¹ Election-Related Disputes and Political Violence: Strengthening the Role of the African Union in Preventing, Managing and Resolving Conflict – REPORT OF THE AU PANEL OF THE WISE

¹¹² Colaguin Claudio – Symbolic Violence and the Violation of Human Rights: Continuing the Sociological Critique of Domination: International Journal of Criminology and Sociology, International Journal of Criminology and Sociological Theory. Vol 3, No. 2, June 2010.

Earlier on in the chapter there is reference to what is termed “symbolic violence” where an attempt is made to justify that electoral conflict or violence in Swaziland are a resultant of an ailing political system, which has continually entrenched itself through the Tinkhundla system of government. To apply the same thinking as Bourdieu who ‘sees the naturalisation of power relations, and the resulting symbolic violence, as made up of two processes – ‘dehistoricisation and universalisation’, and thus requiring that we address the historical and contextual factors; it then follows to claim that – for lasting solutions on the electoral violence; it will be prudent that Swaziland treats the root causes of the conflict than the symptoms. For this to happen; it calls for the masses to work towards that change; as it is said that, “*symbolic power cannot be exercised without the contribution of those who undergo it*”¹¹³.

Section IV begins to explore some ways in which the EBC can be in a position to cleanse itself; as a way to manage conflicts associated with elections and begin a journey to build on its integrity and legitimacy to all electoral stakeholders in the country; especially the electorates and potential candidates. At the same time; there has to be an acknowledgement of conflict resolution theory, that for a sustainable resolution, there is need to confront the causes of the symbolic violence. Thus, the chapter carries recommendations targeted at the EBC and the country at large.

Recommendations to EBC

The preceding section outlines an early warning mechanism for Swaziland, and manages to inter-alia point a direction towards recommendations and future activities for the EBC which are summarised below:

- i) Gather accurate information on factors with conflict and violent propensity to facilitate suitable tools for security and risk management planning.
- ii) Monitor the political climate and technical aspects of the electoral process including variables that are a threat to political stability and security, especially ensuring that there are no unwarranted legislative and structural restrictions on rights that warrants democratic election values and principles. This goes hand in hand with ensuring that courts are accessible and are in a position to handle legislative matters in a timely, effective and fair manner.
- iii) Equality and non-discrimination should be the guiding principles in conducting the elections; and the EBC should ensure that there are no barriers to elections participation; whether perceived or real.
- iv) Identify electoral conflict hotspots (i.e. at which point of the elections cycle are conflicts likely to occur) to allocate sufficient time and necessary resources to address those cases.
- v) To better identify technical gaps; EBC needs to begin to plan elections along the three elections stages (pre-during and post elections phases) which gives proper planning and learning from reflections at each stage of the elections.

Concluding Recommendations

The main crux of the matter is the position of the monarch in any envisioned political dispensation; followed by the re-alignment of the legislative framework, including the Constitution, and institutions that supports the ideals of the “*new Swaziland*”. Numerous observer missions’ report over the years¹¹⁴ has highlighted the skewed political field particularly raising concerns about the exclusion of political par-

¹¹³ *ibid*

¹¹⁴ Commonwealth Observer Mission Report 2008 and 2013, SADC Lawyers Association Observer Report 2013

ties in participating in elections. Political parties themselves and other civic groups (i.e. labour unions) have continually advocated for a national political dialogue; a peaceful means to usher in a democratic dispensation in Swaziland. These calls for dialogue have recently been met positively by the Commonwealth who offered a facilitator in the persona of Former President of Malawi, H.E. Dr Bakili Muluzi. For the proposed dialogue, civic groups have positioned themselves drawn from political parties and civil society organisations with a fair representation of interests including women. Already, issues of mandate have been raised by proponents of the conservative camp.

On another note; there remains a question on the unity of the advocacy agenda amongst the representatives of civic groups and their constituencies. Time for consultation with constituencies should have been allowed, to ensure that there are no clashing agendas on the negotiating table. Assuming that the issue of political mandate or legitimacy of the dialogue representatives is raised during the dialogue against the representative civic groups; a national referendum can only be the sane resolution towards ascertaining the “new Swaziland” that the populace envisions. In this case, more time will be required to open spaces for political parties to mobilise the masses; especially considering the fact that they have never had that liberty to freely mobilise ever since the 1973 Decree came into effect. In a similar token, civil society organisations will need to roll out programs (i.e.) conducting civic education on systems of government to assist level the ground for political plurality. Meantime, the EBC needs to be assisted in strengthening its capacity; technical and operational skills towards regaining integrity of the institution, personnel and also of the election process itself.

United Republic of Tanzania & Zanzibar
Author : Andrew Mushi and Alexander Makulilo



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- 5.2 Recommendations

Introduction

Elections are an integral part of any democracy. They are a mechanism for legitimising a political system, the succession of government and leaders, linking political institutions with voters as well as a way of holding the elected government and leaders accountable to the electorate (Makulilo 2009). However, elections do not in and of themselves denote democracy. Ideally, they should be a peaceful and open discourse of persuasion in which candidates solicit votes from electorates. However, owing to their inherent nature of competitiveness for political power, elections, particularly in high-stakes contexts can potentially lead to violence. Usually this happens if key stakeholders pre-perceive them as not free and fair, where those seeking to retain or gain political power have few or no qualms about resorting to extraordinary measures including the use of force to win, or where underlying causes of conflict, like exclusion, inequality or a history of ethnic tensions exist.¹ In Africa, elections present stiff struggles over the access to scarce resources controlled by states. It is owing to such high stakes that politicians resort to a variety of means whether fair, or foul to attain public office (Bratton and van de Walle, 1997). This leads to electoral violence. Electoral violence prevents eligible voters -especially women, disabled, and marginalised groups- from participating effectively in the electoral process. It may disrupt candidates from mobilising voters, and finally it may obstruct the election management bodies to discharge their functions.

In Africa, electoral violence has become a common phenomenon to the extent that there is no any single election held without notable cases of violence and with devastating impact. Yet, the quest for deepening a culture of democracy and peace, is the hallmark of the 2002 Protocol Establishing the Peace and Security Council, and the 2007 African Charter on Democracy, Elections and Governance (ACDEG). Both normative frameworks of the African Union (AU) implore the Union to invest more effort, and resources into preventive diplomacy through democracy building as part of securing the continent's peace and stability. Linked to the above, another intended outcome of this initiative is, stronger institutional and operational synergies between the African Governance Architecture (AGA) and the African Peace and Security Architecture (APSA). The African Union Commission Strategic Plan (2013-2017) combines these two priorities of the Union into one single outcome namely: Outcome 4 on "Peace and stability, good governance, democracy and human rights as foundations for development and stable societies."

Since violence is omnipresent (Collins 1974; Barron et al, 2004; Sen 2008), studies of electoral violence have to start by analysing theories of violence. Because of its different manifestations, there is no single theory that can explain all types and form of violence at all times and places. Collins (1974: 416) holds for example that "There are a large number of kinds of violence, and no simple theory will explain all of them." Collins proceeds that "No theory of individual motives for violence will explain much of what actually happens, not only because motivations for violence are diverse, but because most attempts at violence are abortive and most violent actors are incompetent". Specific to electoral violence, Biegon (2009) asserts: "At the very least, general explanations may lead to oversimplification of the issues that have led to electoral violence in a particular society". Thus, the literature on political violence categorises three broad ways of analysing violence. These are metaphysical (Micro-analytical level), structural (Macro-analytical levels), and cultural explanations to violence. Those who stand for metaphysical explanation argue that violence occurs due to the violent nature of human beings, that they are so bad and inherently

1 Elections and Conflict Prevention: A Guide to Analysis, Planning and Programming Democratic Governance Group Bureau for Development Policy http://www.undp.org/publications/Elections_and_Conflict_Prevention.pdf (accessed 15.08.2011).

violent. This view sees violence as a result of individual pathologies. Apter (1997:7) explains: "In any moment, those most prone to the use of violence have some kind of personality problem. Experience shows that it is usually the wrong people who bring up the right issues- the troublemakers, malcontents, those quickest to meddle, to take on the grievances of others as their own, the most presumptuous, those lacking self control, common sense propriety and the institutional respect necessary for the responsible exercise of citizenship". This is what others call the micro pathological causes. The micro-analytical level explanations for violence mention the psychological characteristics of violent militants, as well significant levels of relative deprivation and frustration (Porta 2012:243). The difficulty with this kind of reasoning is twofold. One, it does not define what it is meant by bad human beings, or what psychological problems do they have. Two, and most important, is why some individuals are more prone to violence than others. Why are they having psychological problems or frustrations more than others? Are these a natural condition?

The structural explanation to violence goes beyond the violent nature of individuals and takes into consideration of its triggers. That is the environment within which violence occurs. Proponents of structural violence, such as Collins (2009:16-7), hold that "Situational conditions can launch otherwise non-violent individuals into violence. Such conditions include not only war but also states breakdowns fostering violent crowds and paramilitary activities... Even if on the face of it most of them have not shown violent and anti social patterns from an early stage but acquired their techniques of violence as the unfolding historical situation presented the opportunities". Galtung (1969) is more specific and is known as the father of structural violence. He defines structural violence as a situation in which "violence is built into the structure and shows up as unequal power and consequently as unequal life chances.". He proceeds that "resources are unevenly distributed, as when income distributions are heavily skewed, literacy unevenly distributed, medical services exist resources is unevenly distributed" (Galtung 1969: 170-2). These inequalities are generally referred to by Galtung as Social Injustices. Referring also to injustices, Sen (2008: 7) maintains: "It is not hard to see that the injustice of inequality can generate intolerance and that the suffering of poverty can provoke anger and fury... and a sense of injustice, related particularly to gross inequality, can be a good ground for rebellion- even bloody rebellion". In Apter's words structural violence manifests itself as social pathologies. He states "pathological condition may arise out of asymmetries of power and access, of classes, of systems of political economy like capitalism or socialism. Most violent acts are seen as a consequence of social pathologies, systemic faults" (Apter 1997: 7).

Other analysts see violence as a means to end the inequalities (Honderich 2003). He posits that "At the same time it is entirely relevant that violence by another comparison may be an attempt to secure equality of influence, or an approximation of it. Some violence, argues Honderich, is an attempt to approximate more closely to an equality of influence (Honderich 2003: 168-9). This is what he calls democratic terrorism. Demonstrations are for example one way to get the attention that there is a problem. Baier (1991: 33-4) holds that "Demonstrators need not to expect demonstration itself to bring about the changes they demand. A successful demonstration gets attention. It will then be hoped that this attention will prepare the ground for other methods, either violent ones- assassination of leaders and armed uprising or non-violent ones- negotiations, legislation, or elections...they expect their demonstration to get their cause noticed, to put in the limelight."

Structural theory to violence is relevant in this chapter because of its emphasis on the context within which the violence takes place. Context is necessary here as it considers the nature of the structure of the society in terms of political and socio-economic factors. Politically, for instance, we consider unfair distribution of powers and skewed laws to be at the apex of electoral violence (Stremlau and Price 2009).

The monopoly of one actor over others can be a good ground for violent acts. The social divisions and economic disparities are also taken on board here. Thus, our analysis sought to examine the extent to which the structure of the society (individual and social pathologies) contributes to electoral violence in Tanzania. Related to structural (social pathologies) explanation is the cultural view of violence. Cultural theories relate to conflict and violence as they point to modes of living, as well as religious beliefs and social customs. Galtung (1990) gives a broader definition of cultural violence to include any aspect of culture that can be used to legitimise violence. This study addresses the following three key questions: - (i) How prevalent and geographical spread are incidents of electoral violence in Tanzania? (ii) How can electoral violence in Tanzania be explained? and (iii) To what extent is the early warning system effective to address the problem of electoral violence? In order to respond to these questions, this chapter is divided into six main sections. Section one provides the introduction. Section two covers the context and drivers of electoral violence. Section three focuses on mapping of electoral violence. Section four is about mechanisms for addressing electoral violence. Section five covers prevention of electoral violence and early warning mechanisms. Section six covers conclusion and recommendations.

Section I - Context and Drivers of Electoral Violence in Tanzania

1.1 The Context and Drivers of Electoral Violence

Tanzania is a United Republic. It is made up of Tanzania Mainland (Tanganyika before the Union) and Zanzibar Islands. The two countries, just as most African countries, achieved their independence under a multiparty political system. Tanganyika got her independence on 9 December 1961. The Tanganyika African National Union (TANU) was the ruling party at independence. In 1962, Tanganyika became Republic. Since then to 1965, it was a *de-facto* one party state. That means, in the early 1960s, even before Tanzania adopted a single party constitution, there had been earlier moves to restrict space for popular political participation. Among such moves were the invocation of the colonial deportation dissidents, the enactment of the Preventive Detention Act in 1962, the curtailment of independent trade union activities and their centralization under the National Union of Tanganyika Workers (NUTA), the abolition of the administrative roles of traditional chiefs, the centralization of cooperative societies under the Co-operative Union of Tanzania and the undercutting of the power of District Councils by bringing them under the direct control of the Minister of Local Government. All the centralized organizations were collectively brought under the tutelage of TANU and designated as mass organizations of the party. On the other hand, Zanzibar is made up of two islands, Unguja and Pemba. The islands got their independence on 10 December 1963, from Britain based on a multiparty system. The first independence government was formed by a coalition of the Zanzibar Nationalist Party (ZNP) and the Zanzibar and Pemba People's Party (ZNPP). Other parties of the time were the Afro-Shiraz Party (ASP) and UMMA party. Despite the coalition government, ASP was a dominant party in Unguja. Perceiving that the granted independence was for minority Arabs, ASP and its supporters waged a successful revolution on 12 January 1964. Nonetheless, one wonders if the justification for the revolution had been to bring the equal distribution of resources among Zanzibaris. It was expected that the "massacre and expulsion of a large number of Arabs, and the nationalisation and redistribution of large landholdings should have solved the problem. However, the history of post-revolution Zanzibar has been punctuated by repeated recurrence of political unrest and a persistence of deep political division (Sheriff, 2001:301). This implies that the revolution was not able to address the social and political fault-lines that were constructed before and during colonialism. Indeed, the revolution marked the end of multi-party politics in Zanzibar. On 26 April 1964 Tanganyika and Zanzibar united to form a United Republic of Tanzania.

With the inauguration of the interim constitution on 10 July 1965 however, Tanzania became both *de-*

jure and *de-facto* one party state. TANU on the Mainland and ASP in Zanzibar were the only parties left by law to operate and others were banned. Article 3(1) of the constitution stated “There shall be one political party in Tanzania”. Section (2) of the same article provided categorically that “until the union of the Tanganyika African National Union with the Afro-Shiraz Party (which United Party shall constitute the one political party), the Party shall, in and for Tanganyika, be the Tanganyika African National Union, and in and for Zanzibar, be the Afro-Shiraz Party.” Section (3) provided further that all political activities in Tanzania, apart from that of the organs of the state of the United Republic of Tanzania and Zanzibar should be conducted by or under the auspices of the party. This was the period when civil societies were suffocated, political parties banned, and the parliament reduced to a rubber stamping machine of the decisions made by the National Executive Committee (NEC) of the party. It was also the period where almost all public institutions were politicized starting from the civil service to the security forces. Young peoples’ organizations became the Youth League: Women’s organizations became the party’s women’s wings and so the force continued. All these were done under the justification of unity, developmentalism and Africanization (TANU Annual Report 1965). Yet, on 3 June 1975, the National Assembly made constitutional amendments which declared that the party was supreme in law as well as practice. Article 3(3) of the Interim Constitution provided that all activity of the organs of the state of the United Republic of Tanzania should be conducted under the auspices of the party. This was a climax whereby all state organs were under the party. The party was the final authority in the country.

On 5 February 1977 TANU and ASP merged to form CCM. The supremacy clause was retained in the Constitution of the United Republic of Tanzania (URT) of 1977. Article 10(1) of the URT constitution and Article 5(2) of the constitution of the Revolutionary Government of Zanzibar of 1984 provided categorically for the supremacy status. This political development eroded completely the powers of the branches of the government. All important decisions and policies in the URT were to be decided by the party. In 1992, Tanzania became a multiparty state. However, it must be noted that Tanzania experienced a top down transition (Hyden 1999), imposed transition (Bakari 2001; Pinkney 2003), and very specifically a CCM’s controlled “democratic” transition (Baregu 2003). This transition path gave CCM the monopoly of the process to determine the transition pace, design the rules of the game, as well as to own and benefit out of it. The de-linking of the party from the state of the previous authoritarian regime is yet to complete. The power of the state in Tanzania remains closely linked to that of the ruling party. Evidently, the state is in the pocket of the ruling party (Hyden and Mmuya 2008:111). Given this background, political culture on the eve of the democratic transition was essentially subject. Tanzanians seemed to have no much information about the government and political system in general (Mushi et. al. 2001). It was on this context that the Nyalali Commission (URT 1991) recommended for massive civic education to de-indoctrinate the legacy of the single party philosophy. This was not implemented, though there had been some ad-hock programmes for voters’ education in all the previous general elections. From this background, Tanzania has two elections. The first one is that of the United Republic popularly known as Union elections. The second elections are specific for Zanzibar.

1.2 Drivers of Electoral Violence for the Union Elections

The incidents of electoral related violence in Tanzania can be attributed to different factors. Broadly, these factors can be grouped into two: the nature of electoral system and structural factors. For this chapter, structural factors can be referred to as the environment of the society in which the elections are conducted, whilst the nature of the electoral system is referred to as the rules and procedures which guide the elections. The combination of these factors cannot be ignored if one is to capture the nature of electoral related violence in Tanzania. However, it is important to note that in 2015 elections the nature of the electoral system had a lot of influence on electoral violence. The following section provides the

analysis of the phenomenon by looking at the drivers of electoral violence.

The first driver is the nature of the electoral system. The electoral system currently used in Tanzania is mainly “First-Past-the Post (FPTP)”. In respect to the presidential election, if a presidential candidate hails from one part of the United Republic his/her running mate who is a vice-presidential candidate shall come from the other part of the Union. Both are elected together and at the same time. The presidential candidate who wins the majority of votes is declared president and his/her running mate is automatically declared vice president. Tanzania also uses a system of proportional representation according to votes, in the elections of Members of the Parliament for Women’s Special Seats. These are special seats for women which are 30% of the total number of elected constituency members, plus five members elected by the Zanzibar House of Representative, the Attorney General of the United Public of Tanzania (ex-officio Member of the Parliament), the Speaker and ten presidential nominees. Regarding the Councilor’s election, proportional representation for women special seats is not less than one third of the all elected Councilors and Members of Parliament in each Council. The special seats are apportioned according to seats each political party has won in the council. Similarly, to mainland Tanzania, the Zanzibar president is elected through direct popular vote. The House of Representatives (HoR) elects 54 seats directly through the FPTP a five-year term. Another 11 seats are filled by presidential appointees, including two from the opposition party and the Zanzibar Attorney General is *ex-officio*. The winner takes all system in Tanzania has often produced a discrepancy between votes and seats of the winning party, leading to minority governments exercising authority over a majority of citizens who did not elect them as it happened in the 2005 general elections. Moreover, the system has encouraged the electors/voters to focus on party rather than on programmes and abilities of the individual candidates. In many incidents, the voters have tended to rubber stamp the choices of the parties which adopt candidates given the fact that independent candidature is forbidden in Tanzania electoral politics. In the Tanzanian context the first-past-the post system in many different ways has made elections a gamble and a zero-sum affair. A few votes determine whether one emerges as a total gainer or a total loser, hence culminating into a winner-takes all system.

The second driver is the legal framework for elections. The reintroduction of multipartism and competitive politics in Tanzania did not engage comprehensive change of the rules, and institutions that were used during one party system (Hyden, 1999; Baregu, 2003). The current playing field of democracy and election in particular is unlevelled (Makulilo, 2008; Hoffman and Robinson, 2009). The electoral system is by theory and practice in favour of the ruling party at the expense of the opposition (Henry, 2013). Thus, the legal framework of elections, the election management bodies, and security institutions are perceived to be in favour of the ruling party. This has led to the mistrust of the opposition towards electoral institutions as they feel the sense of injustice. The legal framework in which the elections are conducted is hostile to free and fair elections. It favours the ruling party while sidelining the opposition. This has been a source of opposition’s mistrust towards entire electoral processes as there are feelings of injustice. Article 74 (1) of the Constitution empowers the president to appoint the electoral commission without consulting any other authority. The appointments include that of the chairman, vice-chairman and commissioners. Also, the president has the discretion to dismiss the commission at his convenience. There is the suspicion from the opposition on the conflict of interests when the incumbent president is also one of the candidates vying for presidency (TEMCO 2011; EU 2015). How do the officials of the commission distance themselves from favouring their superior? The law does not provide for security of their tenure. Moreover, the Article 41 (7) of the same Constitution does not grant a chance to challenge presidential results in the court of law once they have been declared by the commission. Such provision is contrary to good democratic practices which vest the court with the power to review any processes that were carried by government institutions whenever one of the part feels aggrieved. The opposition

sees this as an opening for the commission –which is unilaterally appointed by the president– to declare the ruling party's candidate (victorious) even when he/she has not won the election (Makulilo, 2009). Henry (2013: 48) asserts that:

In the situation where a presidential candidate has refused to accept the results due to the perceived unfair electoral system it becomes potential for opting for violence as the judicial review, which is the non-extralegal way, is prohibited. Adding the fact that the Electoral Commission is viewed as a tool for the ruling party, prohibiting judicial review increases the potential for post-electoral violence as the opposition can conceive that the commission will declare the results in favour of the incumbent as the results cannot be interrogated in the court of law. For instance, in the 2010 election, the CHADEMA presidential candidate refused to accept the presidential results. He went further to vow that CHADEMA would ensure that the country becomes ungovernable. Similarly, in 2015 elections, the opposition, particularly CHADEMA, disputed the election results.

The third driver concerns the security forces. The security forces are accused to incline towards the ruling party during elections (Kamata, 2006; TACCEO, 2010; Bakari, 2001). The apparatuses –including the police, local militias and the army– have been acting unprofessionally and with bias in favour of the ruling party at the expense of the opposition. For instance, in the wake of 2005 election the chief of Police Force linked the main opposition party, of that time, with terrorism. One day before the election he displayed to the journalist a knife –with Arabic inscriptions– and scuff which he alleged to have been brought in the country by the opposition with an intention to wage into violence in the voting day. Although he did not disclose the party, these materials had some colours which could be related to Civic United Front (CUF) (TEMCO, 2006). In the 2010 elections the allegations of bias of security forces which sparked violence in a number of areas were widespread. For instance, there were heavy clashes between opposition supporters with the police in urban constituencies in Mbeya, Arusha, Dar es Salaam, and Mwanza. The by-elections that were held after 2010 followed similar trend. Apart from that, in 2010 security forces interfered in the electoral processes. In the wake of 2010 election top of officials of the police, army and intelligence services issued a joint statement warning citizens to accept election results to be issued by NEC (TACCEO, 2010:130). The statement was delivered few days after the opposition candidate from CHADEMA, Wilbroad Slaa, had complained that there were plans involving security apparatus to rig presidential election in favour of the incumbent. In relative terms, it is important to note that unlike 2010 elections, security forces in the 2015 election acted professionally. However, in some areas there were allegations of bias from police officers towards the opposition. Also there was the use of unnecessary force towards the opposition and their supporters. In Arusha for instance the police arrested the CHADEMA parliamentary candidate for Arusha constituency, Godbless Lema on the ground that he exceeded one minute beyond required campaign time. According to James Mbatia, the chairman of NCCR-Mageuzi and UKAWA co-chairman, such accusations were simply grounded on bias and favouritism. CCM's candidates across the country were alleged to have done the same but the police did not dare to arrest any of them. It is surprising that in this election five parliamentary candidates from the opposition were arrested across the country. More strikingly, others were arrested for the crimes committed –in their absentia– by their followers of which they had no any direct involvement.² In other instances, the police did not act when the opposition reported the ruling party and its supporters for committing acts of aggression and violence towards them. For instance, the car of parliamentary candidate Esther Matiko was destroyed by people who are believed to be CCM followers. However, the

2 Nipashe (30/9/ 2015) "Kamatakamata ya wagombea ubunge CHADEMA yafikia wanne"-

police did not arrest any perpetrator despite the fact that they were known.³

The fourth driver for electoral violence is about the Electoral Commission (NEC). There have been doubts on the independence and impartiality of NEC (TEMCO, 1997; 2001; TACCEO, 2010). In several instances NEC has been working under the influence of the party in power in executing its functions. This state of affairs leads to electoral violence in twofold. On the one hand, the opposition tends to react violently as it feels being disadvantaged, and on the other hand, the ruling party commits violence with impunity due to its porous accountability to the commission (Henry, 2015: 12). Apart from the law that guides the commission, its organization in supervising elections raises eyebrows from various sources. The commission does not have permanent staffs apart from those at the national level. It depends on the senior government officials at the constituency level to carry out all electoral processes. These include the Ward Executive Officers (WEO), as well as the District Executive Director (DED) who are used as the election returning officers. The WEO and DEO are appointed by the Prime Minister's Office, who belongs to the ruling party. Moreover, in most cases the same Prime Minister can be a contestant in the parliamentary constituency elections. At the same time, these government employees are threatened by government and party officials to ensure the ruling party's candidates victory, so that they retain their work. For instance, in the 2010 elections, there were delays in releasing election results. According to Legal and Human Rights Centre (2011:102) "delays in releasing election results took place where the opposition was deemed to be strong. It is indeed a sign that the ruling party CCM was not ready to accept the results. This is a weakness of the electoral body (NEC) that is not independent from the government in power". For instance, in Lindi Urban, oppositions had to resort to violence so that results could be announced. In 2015 there were similar trends of the group of opposition supporters demanding the announcement of results due to long delays. During the process, the supporters frequently clashed with the police, and in other areas the police had to use tear gas to calm down the situation. An expert survey which was conducted by the United Nations Ecominomic Commission for Africa (UNECA), on the elections and management of diversity in Africa in 2013, noted the general problem of the electoral commission in Tanzania as given below: -

Responses	Valid percent
Commission neither independent nor competent to hold credible elections	14.0
Commission not independent but rarely competent to hold credible elections	17.1
Commission not independent but fairly competent to hold credible elections	38.8
Commission is independent and fairly competent to hold credible elections	20.9
Commission is independent and fully competent to hold credible elections	9.3
Total	100

Source: UNECA Expert Survey 2013

3 Tumma, Sitta (september20, 2015)"Gari la mgombea CHADEMA lavunjwa voo"- TANZANIA DAIMA.

Moreover, when, the commission has acted against the ruling party, its actions have been un-proportional to the wrongdoings committed or when the opposition has committed similar offence.

The fifth driver is regionalism and ethnicity. The 2015 elections were dominated by issues of regionalism and tribalism. This was very uncommon in Tanzania at least at presidential level. The social media platforms, took a central stage in such campaigns. Yet, in some public campaign rallies campaigners openly blew these sentiments in campaign podiums. The candidate from the ruling party was associated with the Lake Zone/and Sukuma tribe, whilst the opposition contestant hailed from the Northern Zone and Chaga/Maasai tribes. In order to understand this, one has to go back to the nomination processes in the ruling party. In 2011, it was reported that ruling party youth wing, UVCCM, from Coastal Region issued a declaration that the next Tanzanian president will not come from the North.⁴ The declaration came after the wing's meeting which was held in Bagamoyo. It was alleged that the son of the president –Ridhwani Kikwete– was also a member of that meeting. Unfortunately, there was no explanation or condemnation from CCM leadership on such divisive declaration. Analysts considered that the UVCCM declaration was directed to Edward Ngoyai Lowassa, who was one of many CCM stalwarts, with the intention to seek for presidential nomination through the party. This statement that the “next president will not come from the North” continued to dominate political debate up to the nomination processes within CCM. As expected, Lowassa sought for nomination through CCM but his bid was unsuccessful as CCM nominated John Pombe Magufuli. Lowassa crossed over to CHADEMA and he was nominated to run for presidency. Most of those who crossed over with him included high ranking CCM officials from Arusha, Kilimanjaro and Manyara. These are the regions which are referred to as Northern Zone. For long time CCM cadres and supporters have been branding CHADEMA as a part dominated by people from the North and Chagga in particular who are viewed as power and money mongers. Thus once in power, their leaders intend to utilize state power for their economic gains. From that ground, Lowassa's crossover to CHADEMA fuelled such claims. It is not a surprise that CCM cadres were frequently trying to associate CHADEMA and their candidates with tribalism and regionalism. In one instance, Steve Nyerere, one of the campaign team for CCM, openly told the people during a campaign rally that CHADEMA was dominated by Chagga in all positions. He went further to allege non-chagga have ended up being terminated from the party and their positions. However, the wife of CHADEMA presidential candidate, Regina Lowassa, was recorded arguing the Chagga to communicate with their cousins from various parts of Tanzania to vote for his husband and CHADEMA candidates in other positions. Also CCM regional chairman for Geita, popularly known as “Msukuma” told the people in the campaign rally, in Mwanza, to vote overwhelmingly for CCM candidate John Magufuli, and not to let him down. Mwanza was the centre of Lake Zone. Hence they had to show the example to other regions. Social media debate on presidential race, among other things, was also dominated by North vs Lake Zone/ Sukuma vs Chagga tribes' topic. Thus issues of regionalism and tribalism dominated the election as, politicians and their supporters employed identities to mobilize the votes. It is not a surprise that for the first time in Tanzania's history, the opposition won five constituencies out of seven in Kilimanjaro and five out of six in Arusha. Some of the constituencies, including Longido and Munduli, were strongholds of the ruling party until elections. CCM enjoyed overwhelming support in CHADEMA strongholds in the Lake zone particularly in the areas habited by Sukuma people. This is because distortions and negative campaigns took a line of tribalism and regionalism.

The sixth driver is related to political parties' security agents. There have been reports of militarization

4 Mwanahalisi (30th March 2011) “Sumaye Apembua UVCCM” http://www.mwanahalisi.co.tz/sumaye_apembua_uvccm (accessed 20 December 2015).

of the elections. For instance, in the 2010 elections in Tarime district, there were vigilante groups which were hired by individual politicians to attack their opponents especially during campaigns. These include groups known as “West Lawama”, “Jamaica Moccasin”, “Wanaume Nenge” and “Mdomo wa Faru” (CASS-UDSM, 2011). These groups were responsible in a number of incidents of violence that were pronounced in the Tarime constituency. Apart from these, the popularly known paramilitary groups have been from political parties. It has been a common practice in Tanzania that political parties have their party militias. In some political parties these agents are recognized in their constitutions, as one of the branches of the party. The famous militia groups include Green Guard, Red Guard and Blue Guard for CCM, CHADEMA and CUF respectively. There have been several attempts from the police force and the registrar of Political Parties to abolish these groups but they have ended in vain. In joint workshop between the police force, the office of the registrar of political parties and other stakeholders, the police force consented for the operation of these groups with the exception that they should not obstruct the mandate of the police force. The ground for the permission was on the fact that the police force had no enough police officers to guard all parties’ rallies particularly in 2015 elections⁵. Political parties have defended these groups as only intended for protection of their leaders and supporters; nevertheless, these groups have been involved in violence against other political parties in numerous occasions. It is on this ground that party security agents have become one of the main perpetrators of election related violence. For instance, in Igunga by-elections held in 2013, the youth from the Red Guard were involved in arresting and beating the District Commissioner (DC) of Igunga, Fatuma Kimario. They accused her of campaigning for CCM. More strikingly, the same were accused for pouring acid onto Mohamed Tesha, a CCM cadre, which left his face disfigured. The youth from Green Guard were accused of abduction, as well as committing sexual and physical assault of CHADEMA special seat MP Rose Kamili, in the 2014 Kalenga by-election⁶. Such practices were also rampant in the 2015 elections. Across the country there were reports of violence carried out by agents. They included fighting, disruption of campaigns and the use of abusive language towards political opponents. During CCM nomination processes, security agents from CCM openly beat Muzamil Kalokola, as they accused him of interfering with the meeting of other candidate Edward Ngoyai Lowasa. This was a surprise due to the fact that both the victim and perpetrators were the members of the ruling party and both were seeking for nomination.

1.3 Drivers of Electoral Violence in Zanzibar

Electoral violence in Zanzibar can be explained by several factors. To start with, the Unguja – Pemba polarisation has been the most critical driver. Unguja occupies 63% and Pemba 37% of the total area of 2232 square kilometres of Zanzibar. The headquarters of the government is located in Unguja. According to the 2012 census, Zanzibar has a multiracial population of 1,303,569 with a distribution of 58% in Unguja, and 42% in Pemba. As previously said, Zanzibar got independence from the British colonial power based on a multi-party system. The coalition between ZNP and ZNPP formed the government, while other parties existed (ASP and UMMA). In 1964, the revolution overthrew the elected government, and the United Republic of Tanzania was formed. From the outset, Zanzibar politics was basically racial in nature. The ZNP was an Arab-based party, ASP an African-based, ZPPP was Pemba and Shiraz-based, and UMMA party cherished the Chinese and Cuban political orientations. At that time, however, the Arabs owned a lion’s share of the economy. These divisions informed the pre-independence elections as well. Table below summarizes such divisions: -

5 <http://www.habarileo.co.tz/index.php/makala/2862-vikundi-vya-ulinzi-vya-kisiasa-vinatakiwa-kuzingatia-sheria-za-uchaguzi> (accessed: 20 December 2015).

6 Saanane, Ben (4th November, 2015) “Natoa Hadhari, Vinginevyo ICC Haikwepeki”, Raia Mwema

Pre-independence elections in Zanzibar

Year	ASP	ZNP	ZPPP	M u s l i m League	UMMA	Total Seats
1957	5	-	-	1	-	6
Jan 1961	10	9	3		-	22
June 1961	10	10	3		-	23
July 1963	13	12	6		-	31

Compiled from (Bakari 2001; Lofchie 1963 and Campbell 1962)

The table shows clearly that no party won the needed absolute majority to form a government. The ASP was dominant in Unguja while ZNP was dominant in Pemba. It was this fact which made it necessary for the coalition of ZNP/ZPPP to form government in 1963. The formed government was perceived by ASP as an Arab independent government, and not for Africans. This factor led to the 1964 revolution. The post-revolution government isolated Pemba in all aspects of life i.e. political, social and economic. Indeed, Pembans are marginalised. This politics of exclusion resurfaced during the multiparty era in 1992. The 2000 elections, which were described as “aborted”, were followed by post election blood violence. Zanzibaris had to run away and seek refuge in Kenya and Somalia, while a number of “31 people were killed, 48 suffered permanent disability, and 243 suffered injuries. More than two-thirds of the victims hailed from Pemba” (KCK; 2003:15). As the repression mounted to the maximum in May 2008, the group of 12 elders from Pemba decided to send the latter to the Secretary General of the United Nations demanding for the independence of Pemba from Zanzibar and hence forming the union of three governments. They explained that their bid to independence was due to the repression which they were experiencing since the revolution and after the three elections of 1995, 2000 and 2005. The elders asserted that, the letter which they sent to the Secretary General had the signature of more than 500 people of Pemba origin as the sign of legitimacy of their bid to autonomy from Zanzibar (Sing'Oei, 2010: 70). It is interesting to note that the CUF has always won all seats in Pemba and some few in Unguja while CCM's stronghold is only limited to Unguja. However, in the 2016 elections, CCM won all the seats in Zanzibar after the CUF boycotted to participate in that election.

The second driver is related to the nature of the Union. The Union between Tanganyika and Zanzibar is interpreted as a protection of Unguja, and for that matter of the 1964 Revolution. In every election, CCM maintains “*Mapinduzi Daima*”. The Union government normally sends heavy troops to Zanzibar during elections. All important offices like the radio, national TV, state house, port, and airport are guarded by the military through the entire election period. The ruling CCM usually “imposes” a presidential candidate in Zanzibar. Zanzibaris, especially the opposition parties, want the Union of three governments instead of the present, with only two governments. It is believed that it will end the dominance of the Union government over Zanzibar and ultimately Pemba could compete Unguja as equal. There have been several attempts since 1990 of a Union of three governments. Since 2011 Tanzania is writing its new constitution. The Union of three governments was initially proposed by the Constitution Review Commission. However, CCM is seemingly reluctant to accede to it. It is clearly known that this kind of Union would weaken CCM especially in Zanzibar. The former President Benjamin Mkapa once said that the most important indicator of the life of the party is the continuity of the Union between the Republic of Tanganyika and the Peoples’ Republic of Zanzibar. TANU and ASP which later on united to form Chama

Cha Mapinduzi made the United Republic possible. Under such circumstances, the continuity of the Union is a meter to the life of CCM (CCM 2006).

The third driver is about the voting rights. Voting rights in Zanzibar are highly controversial and exclusive. Since the inception of multiparty system in 1992, mechanisms have been designed by the ruling party and its government to ensure that members and followers of the CUF are systematically disenfranchised. The critical question is who is eligible to vote in Zanzibar. Article 7(1) of the 1984 Constitution of Zanzibar states that every Zanzibari who has attained the age of eighteen years old is entitled to vote in elections held in the country. Yet, Section 3(1) -(4) of the Legislative Act. No. 5 of 1985 defines who is a Zanzibari. According to this provision, a Zanzibari must be a person who resided in Zanzibar prior to 12 January 1964; must be born in Zanzibar and at least one of his or her parents is a Zanzibari; or must be a Tanzanian citizen after 26 April 1964, and has not lost such citizenship; or has acquired citizenship by naturalisation. These conditions are repeated by Section 12(1) of the Zanzibar Election Act. No. 11 of 1984 (Election Act). The spirit of the cited statutes is that for one to vote, one must have attained the age of maturity and must be a citizen. In our view, these conditions do not disenfranchise potential voters (Bakari and Makulilo, 2012).

However, restrictions on registration were imposed since 1995 when there was a requirement of five-year residence on the islands. After the 2000 general elections, restrictions continued but with some modifications. Section 12(2) &(3)(ii)(a)-(e) of the Election Act as amended by Act. No. 12 of 2002 changed a criterion of residence. A resident according to this provision is the one that resides permanently in a constituency, and that he or she has lived there for the period of not less than 36 months consecutively prior to the registration day. Exception is accorded to students, security officers, government employees and people who serve in the international organizations. After 2005, stringent measures were taken by law [Section 12(1) of the Zanzibar Election Act 1984] requiring a potential voter to carry an identity card issued under the Legislative Act. No. 7 of 2005. To get the Zanzibar identity card, however, one must produce a birth certificate which costs TS\$2,500 and an introduction letter from the street/ village executive officer (*Sheha*). Voters registration is highly contested and usually politicized around the two major political parties, the CCM and CUF. Admittedly, CCM and its government dominate the process of defining who is an eligible voter mainly at the advantage of CCM (Bakari and Makulilo, 2012). The requirement of Zanzibar identity card has posed two critical problems on franchising. One is that the whole process of securing the identity card is relatively expensive. TEMCO (2009: 4) estimates the total cost in the region of TS\$32.000 (about US\$22) plus time consuming, i.e., a couple of days needed for a follow up. In a way, potential voters have to buy their right to vote. Second, the *Shehas* (village) who initially have to issue a letter of introduction as a getaway towards registration are CCM die-harder cadres. To be specific, at *Shehia* of Machui in Unguja South region, the *Sheha* was at the same time the CCM branch publicity secretary (TEMCO 2010: 4).

Shehas occupy a strategic position to deny potential voters registration. It must be emphasized that in Zanzibar, party identification is quite known by individuals and even by houses, making easier for the *Shehas* to play politics of exclusion mainly to the detrimental of the CUF members (Bakari and Makulilo 2012). TEMCO (2010: 3-4) observed that a requirement of the Zanzibar identity card was a hindrance and prevented a significant number of potential voters from registering. The overwhelming powers of the *Shehas* interfered with the voter registration process since they were the ones who determined the eligibility of potential voters by instructing who was entitled to receive the identity card. In some instances, *Shehas* facilitated under-age voter registration in favour of CCM. In Donge Vijibweni in Unguja North B, TEMCO witnessed a large number of under-ages appearing for registration. They were brought in groups by a person who, upon request by the TEMCO Observer, refused to identify himself.

Interestingly, even when the observer tried to inquire about the issue with the Registration Officials, the officials were uncooperative and simply said that they are not allowed to answer any question' (TEMCO 2009: 2). What it implies here is that the *Shehas* cleared them for the ZAN ID and ultimately qualified for registration. The fact that the concerned officials admitted that they were not allowed to answer any question suggested that the deal had already been reached among themselves. The problem of under-ages was pervasive and constant throughout the registration process. TEMCO (2010:5) contends that "the allegation of registering the under-age voters persisted at several registration centres. Some of the people who came for registration appeared too young to be 18 years old. Registration of the under-age was one of the common objections raised by CUF party agents."

The fourth driver concerns the Zanzibar Electoral Commission (ZEC). ZEC is the only body that is responsible in managing elections. In order to understand this institution, one has to revisit the Zanzibar Constitution of 1984, and the Zanzibar Election Act. No. 11 of 1984. These provide for its powers, composition, structure and functions. The most important question is whether ZEC is independent and impartial. Since the advent of multipartism in 1992, ZEC has been one of the sources of problems and contestation in Zanzibar. Opposition parties and other actors in the public question its integrity. ZEC consists of 7 members including its chairperson (Article 19 of the Zanzibar Constitution). The president of Zanzibar appoints the chairperson. No specific criteria have been set in guiding that task, making the matter to be discretionary. The president appoints 2 more members, one from the judges of the High Court, and the other as he/she may wish. Two members are proposed by the leader of the majority party. Other 2 are proposed by the opposition parties in the House of Representatives. The President can dismiss any commissioner without consulting anybody as per Article 119(5) of the Constitution. Our argument is that the president retains much powers over ZEC commissioners. It should be stressed that the president is usually the deputy chairperson of the ruling party. In assessing independence and impartiality of ZEC, there are four criteria to be considered: inclusive procedures for nominating commissioners, security of tenure by commissioners, independent budget deliberated by the legislature, and own staff to manage elections. Seeing ZEC alongside the outlined criteria, it is extremely hard for the commission to pass the tests of independence and impartiality (Makulilo, 2011; TEMCO, 2011). The CUF consistently protested ZEC on the ground that it is not independent and impartial. For example, prior to the 2005 elections CUF clearly put: "It is now clear beyond doubt that CCM does not want democracy and will do all in its power to prevent Zanzibaris from choosing their own leaders. In such circumstances it is hard to escape the conclusion that the only way to have free and fair election is to have a process administered by a third party such as the UN" (Makulilo, 2008).

In contrast, ZEC has relatively enjoyed the trust of the ruling party. Despite of the restructuring of ZEC following "Mufaka II" and the inclusion of representatives of CCM and CUF, ZEC has not enjoyed the trust of opposition parties. TEMCO (2006) holds the same observation that although CUF has its two members in ZEC, the party has had trouble in having confidence and trust in ZEC. Like other opposition parties, CUF believes that ZEC is as yet, neither fully independent nor impartial. On 11 November 2005, for example, the two ZEC commissioners that represent CUF gave an official statement following the 30 October 2005 elections, that the results declared by ZEC were cooked. One fact to be learnt here is that ZEC is the creature of the president of Zanzibar who is also the deputy chairman of CCM for Zanzibar. Therefore, for CCM to declare that ZEC is not independent could mean by force of logic challenging itself, and that it did not win the previous elections legitimately.

The CUF demanded the immediate disbandment of ZEC and the National Electoral Commission (NEC) before the 2010 general elections on the ground that they are not independent and impartial (*The Guardian*). Similarly, through its letters CUF/HQ/ZEC/037/010/056 dated 18.10.2010 and CUF/HQ/KR/

MU/030/59 of 30.10.2010 to ZEC and other key stakeholders, CUF expressed concerns on election rigging by ZEC in favour of the ruling party. Even after conceding defeat after the announcement of presidential results, the CUF presidential candidate, Mr. Seif Shariff Hamad expressed mistrust with ZEC officials (*Mwananchi* 2.11.2010). The October 2015 presidential and legislative elections in Zanzibar were annulled and a rerun took place in March 2016. Several international actors criticized the process. On 22 March 2016, the High Commissioners and Ambassadors to Tanzania of Belgium, Canada, Denmark, the European Union, Finland, France, Germany, Ireland, Italy, the Netherlands, Norway, Spain, Sweden, Switzerland, the United Kingdom and the United States, issued the following statement regarding the election re-run which took place in Zanzibar on March 20th, 2016:

We regret the Zanzibar Electoral Commission's decision to hold a re-run of the 25 October 2015 election, without a mutually acceptable and negotiated solution to the current political impasse. In order to be credible, electoral processes must be inclusive and truly representative of the will of the people. We reiterate our call on the Government of Tanzania to exercise leadership in Zanzibar, and to pursue a negotiated solution between parties, with a view to maintaining peace and unity in the United Republic of Tanzania. We commend once again the population of Zanzibar for having exercised calm and restraint throughout this process, and call on all parties and their supporters to re-start the national reconciliation process to find an inclusive, sustainable and peaceful resolution.

On the other hand, the process was found acceptable by the Eastern African Community (EAC). On 24 April 2017, a UNDP official in Tanzania was expelled – with no public official links to the elections. However, some media made the link between that event and the fact the official reportedly criticized the March 2016 rerun in Zanzibar.

The fifth driver is related to the role of judiciary in elections. Article 34(7) states “No court is allowed to inquire into the election of a presidential candidate who is declared by the commission to have been duly elected”, and lastly Article 119(13) states that “No court shall have power to inquire into anything done by the Electoral Commission in the discharge of its functions in accordance with the provisions of this Constitution.” These provisions deny aggrieved persons to seek remedy in the court of law. It means that once ZEC misuses its powers in favour of any party or candidate that will be alpha and omega. Under this context, and taking into account that the entire electoral system is not trusted, it would suggest that the aggrieved party is more likely to use violence to be heard.

The sixth driver is the role played by area commissioners. All regional and district commissioners who are supposed to be impartial, are cadres of the ruling party. Through the District and Regional security committees, the commissioners continue to hold the post of chairpersonship while at the same time being members of CCM security committees in their jurisdiction. The case of *Seif Shariff Hamad v. The Regional Commissioner of North Region Unguja*⁸ attests to the behaviour of Regional commissioners in preventing the opposition to consolidate. Here, the applicant, Seif Shariff Hamad leader of an opposition party CUF was prohibited from addressing, attending or organizing any political meeting in the North Region, Unguja by order of the respondent Regional Commissioner. This remains the practice until to-date.

The seventh driver is the role played by the security forces. One of the requirements that constrains the normal operations of political parties, particularly in relation to the rights to assemble and associate, is

8 [1995] ICHRL 18 (24 March 1995) <http://www.worldlii.org/> (accessed: 1 September 2015).

to seek police permission. Sections 40, 41, 42 and 43 of the Police Force Act Cap. 322 R.E 2002 require any political party whether provisionally or fully registered to notify the Police Force not less than 48 hours, of the place and time at which the meeting is to take place as well as the general purpose of such meeting. However, the Police frequently use these sections to cancel opposition political meetings. The normal ground has always been that the meetings are likely or intend to cause a breach of peace or to prejudice the public safety in the area. In the landmark case of *Rev. Christopher Mtikila v. The Attorney General*,⁹ the High Court of Tanzania ruled that Section 40 of the Police Force Act, Cap. 322 and section 11(1) of the Political Parties Act 1992, hi-jack the right to peaceful assembly and procession guaranteed under the constitution and place it under the personal disposition and absolute discretion of the District Commissioner without adequate or any safeguard against arbitrary exercise of that discretion. They infringe the right to freedom of peaceful assembly and procession, and are therefore unconstitutional. Moreover, in Zanzibar there are several security agencies which are perceived to work in favour of the ruling party during elections (TEMCO 2010).

The eighth driver is related to the structure of the Zanzibar Government of National Unity. The referendum results which preceded the formation of the Zanzibar Government of National Unity (GNU) showed that 66.4% of valid votes endorsed the government of national unity while 33.6% rejected it. Interestingly, 28.1% of voters did not turn up to vote. Besides, 3% of cast votes were spoilt (ZEC 2011). If the number of those who voted 'Yes' and 'No' is further broken down based on regionalism, it is noticed that the majority in Unguja, which is a CCM stronghold, were doubtful or opposed to the GNU. In Unguja, 99,971 (54.39%) voters gave a 'Yes' to the GNU while 83,833 (45.60%) voted 'No'. We can say that Unguja was pessimistic regarding the GNU. In contrast, Pemba, the stronghold of the CUF, voted a clear 'Yes' to the GNU: 88,734 (88.28%) of valid votes on the island. Yet, the GNU was in essence a product of power struggle between the two major parties, the CUF and CCM. In terms of the scope, the agenda of the GNU is narrow, just to share power in the government particularly the presidency and ministerial posts.¹⁰ The question not addressed is "what is the fundamental cause of the polarization between Pemba and Unguja?", and "would sharing power in the GNU style solve it?". Our view is that merely sharing portfolios may not help much. The way power is reconfigured, whichever party that would be the second winner in any general election, it might not necessarily have any significant impact. That party would be "invited" to share power. But all major and effective executive decisions remain with the first winner. It is not certain whether CCM would be ready to define such power arrangements and concede defeat to be the second party (Bakari and Makulilo, 2012).

Section II - The Frequency and Geographical Spread of Election Related Violence

2.1 Mapping of Electoral Violence

The United Republic has conducted five multiparty elections i.e. in 1995, 2000, 2005, 2010 and 2015. It is a fact that all the previous elections saw some incidents of violence. Though Tanzania is regarded as an island of peace, these elections were marred with some isolated cases of violence. To be sure, at one incident, in 2010 high placed authorities warned about the eruption of violence. In this phenomenon,

9 [1995] T.L.R 31.

10 See Hoja Binafsi ya Mjumbe Abubakar Khamis Bakary, Kiongozi wa Upinzani, Baraza la Wawakilishi Januari 20, 2010; See also the Resolution by the House of Representatives as passed on March 30, 2010; See also Sheria ya Marekebisho ya Kumi ya Katiba ya Zanzibar ya 1984, Sheria Nam. 9 ya 2010.

the Tanzania People's Defence Forces, Chief of Staff Lt. Gen. Abdurrahman Shimbo, the Deputy Director of Criminal Investigations Mr. Peter Kivuyo, and the Head of the Police Special Operations Unit Mr. VenanceTossi jointly called a press conference and said that no blood would be shed by any political party since they were fully prepared to handle the situation. Gen. Shimbo said: "There have been signs of peace disruption and tranquillity in the ongoing campaigns...some politicians have even dared threatening to shed blood. Let them be warned that we are firmly prepared to make sure that no single drop of blood will be shed during the ongoing campaigns, the Election Day and after that."¹¹

It is evident that the 2010 elections were marred with violence. For example, violence was highly reported in Mbeya, Mtwara, Arusha, Mwanza, and Shinyanga regions. Up to the end of the 2010 election, 6 people had lost their lives (Henry, 2013). The study conducted in 2011 by the College of Arts and Social Sciences (CASS) of University of Dar es Salaam (UDSM) on mapping the electoral violence in 2010 general elections found among its respondents that 83% had heard of electoral related violence, while 58.5% had witnessed it and 31.7% had experienced the phenomena. In 2013 during by-elections held across the country, a number of violent events were reported. However, the deadliest event that captured the attention of the local and international community was the explosion that occurred at the Chama Cha Demokrasia na Maendeleo (CHADEMA) rally on 14th June 2013, in Arusha, which led to deaths of 3 people and a number of hundreds seriously injured. The CASS-UDSM study also found that 100% of respondents indicated that there was potential for electoral related violence in the general elections of 2015 in Arusha, Kahama, and Mara; 80% in Morogoro and Mbeya; 95.5% in Shinyanga and 70% in Tarime.

In the 2015 general elections there were several incidents of electoral related violence. The events of violence involved destruction of campaign materials, killings, physical attacks and the use of abusive language. These incidents were present during and after election. Some incidents of violence led to deaths. One touching incident happened in Tarime Rural constituency, whereby one person was killed and five were injured -all CHADEMA supporters. The attack was alleged to have been carried out by CCM supporters after the CHADEMA parliamentary candidate, together with his supporters, were accused of interfering with the CCM campaign rally.¹²

Unlike the mainland Tanzania which held elections regularly since 1965, Zanzibar did not hold any election until 1980. In 1992 the United Republic restored the multi-party system. It is important to understand that CCM, which is the ruling party, is dominant in Unguja while Pemba has remained the strongholds for the major opposition party, the Civic United Front (CUF). Since the inception of multipartism, Zanzibar has had five general elections that is in 1995, 2000, 2005, 2010 and 2015. CCM won all these elections though with a slim victory. The two major political parties are highly competitive and at times such competition has led to deadly conflicts. To be sure, on 26 and 27 January 2001, CUF organized a countywide demonstration following the disputed 2000 elections. The demonstrations were severely and harshly dealt with by the police leading to bloodshed. This was one of the worst events to have happened since the establishment of the multiparty system in Tanzania (Makulilo, 2011). An official government report of 4 November 2002, revealed that 31 people were killed and 290 wounded. Hundreds more left for Kenya to seek for refuge. Yet, prior to the 2005 elections, three people were killed, one of them a member of para-military unit Major Ayoub Mohamed. This was during the

11 *Daily News* 01.10.2010.

12 <http://www.mwananchi.co.tz/habari/kitaifa/mmoja-afa-watano-wajeruhiwa-tarime/-/1597296/2866688/-/wnr5v8/-/index.html>
(Accessed: 15 December 2015).

registration of voters. Moreover, incidences of setting fire to or bombing government buildings, ruling-party offices and churches were quite phenomena in various parts of Zanzibar (TEMCO 2006: 226-33). Previously, there had been some peace accords commonly known as *Muafaka* but all were in vain. Unlike in the past where CUF disputed results culminating to intense conflicts and deaths, the 2010 elections were relatively peaceful. It should be acknowledged that the 2010 elections were preceded by peace reconciliation between CUF and CCM popularly known as *Maridhiano* with the effect of forming the Government of National Unity (GNU). One of the critical questions to be addressed is what is the rationale for a government of national unity in Zanzibar? Although elections in themselves are not an underlying or root cause of the political conflict, it cannot be disputed that Zanzibar has been consistently negatively affected by election processes and outcomes. Of the eight multiparty competitive elections (Jan. 1961, June 1961, 1963, 1995, 2000, 2005, 2010 and 2015) held in Zanzibar from the colonial days to date none of them has provided an outcome acceptable to all major contestants (Bakari 2001, TEMCO 2001). The aftermath of each competitive election has been characterized by not conceding defeat, increased hostility, exclusion of a section of the community and suppression of political opponents. In other words, none of the competitive elections in the political history of Zanzibar has produced a 'legitimate' government acceptable to the major political camps.

Since the re-introduction of multiparty politics and the 1995 elections, two reconciliation accords were signed but neither was implemented. One of the pertinent questions is why the first two accords (*Muafaka* I of 1999, and II of 2001) were not implemented. *Muafaka* I and II actually embodied two key attributes of conflict resolution, notably the acceptance of each other's continued existence and the cessation of hostilities. However, the most fundamental issue, notably governance – determining who should control the Zanzibar government and the process by which such outcome would be determined were never properly addressed (Heilman, 2004: 57).

At the heart of the conflict are the two parties fighting for political power. The parties do not trust each other, and one of the parties does not have trust in the current process of choosing leaders (Makulilo, 2008). CUF was not prepared to accept electoral defeat because it did not believe in the integrity of the electoral process in place. CCM was not prepared to accept electoral defeat, not because it did not have trust in the electoral process, but because of specific political interests, which according to CCM, should not be subjected to electoral outcomes, as some of them would usually say: "We cannot surrender power what we acquired in 1964 through a piece of paper [i.e., ballot paper]." To this group, the stakes were "too high" (including the defence of the revolution, its history, group and personal interests of its members) to be left to unpredictable electoral outcomes, however free and fair they may be. Those stakes, according to that group, ought to be guarded by whatever means possible, including excessive use of force (Bakari, 2001).

The process leading to *maridhiano*, and consequently the passing of the bill for a referendum on the government of national unity, brought to the fore an aspect of political dynamics beyond institutional arrangements. *Muafaka* I and II, -and negotiations for *Muafaka* III, which ultimately collapsed before reaching a final agreement-, were all carried out within the existing institutional arrangements of the party structures of the two parties. Select committees composed of members from the two main rival parties were instituted under the co-chairmanship of the two Secretaries General. The committees engaged in structured negotiations and formal agreements (for *Muafaka* I and II) with clear terms. Agreements were ultimately signed by the leaders of the two parties in official ceremonies at the House of Representatives. In the case of *maridhiano*, however, the process leading to it was fundamentally different. The process and the agreement were informal and were, by and large, a product of two main architects, notably Zanzibar's President Amani Karume and CUF's Secretary General Seif Shariff Hamad.

No clear terms of the agreement under *maridhiano* were ever made public. The two leaders simply declared their broad statement of intent after they had met in camera at the Zanzibar State House. This does not suggest that there were no intermediaries who might have facilitated the rapprochement between the two leaders, but the entire process was informal and clandestine.

President Amani Karume of Zanzibar, and CUF's Secretary General Seif Shariff Hamad met for the first time on November 5 2009, and concluded an agreement popularly known as (*maridhiano*) to forget the past and open up a new page of Zanzibar's political history. The agreement between the two leaders was basically informal and verbal. The exact terms of the agreement, if any, were a secret of the two leaders. A series of measures were taken which signalled a commitment to the reconciliation agenda. Such measures included the unanimously passing of a private bill on 28 January 2010, by the House of Representatives, for the holding of a referendum on formation of a government of national unity in Zanzibar after the October 2010 general election.

Though the ruling party CCM in Zanzibar has remained in power since the inception of multipartism in 1992, it is erroneous to consider that this state of affairs is "stable". Notwithstanding the fact that elections have been neither free nor fair, the margin of victory between CCM and the major opposition party the CUF has in most cases varied slightly. Since 1992, Zanzibar has conducted five general elections, that is, in 1995, 2000, 2005, 2010 and 2015/6. CCM won all these. In 1995 it got 50.2% of the total valid votes against 49.8% of the main opposition party, the CUF. In 2000 CCM got 67.04% and CUF 32.96%. The 2000 elections were described by the TEMCO as "aborted" while the international observers called it "a sham" due to open rigging, manipulation, and violence. In 2005 CCM got 53.2%, and CUF got 46.1%. Yet, in 2010 CCM obtained 50.1%, and the CUF 49.1%. In 2015, elections were nullified by the ZEC. However, in 2016, the CUF boycotted the elections. As can be seen, elections in Zanzibar are highly competitive. The political system there is best described as a two dominant party system. Yet, the elections in the Islands are not free and fair, leading to violence.

Section III – Electoral Administration and the Legal and Institutional Mechanisms for Addressing Electoral Violence

3.1 Mechanisms for Addressing Electoral Violence

Despite periodical occurrence of electoral related violence in Tanzania, there is no specific mechanism in place to deal with the phenomenon. However, there have been several mechanisms which have filled this void, but which initially were not meant for mitigating electoral related violence. These include both formal and informal institutions. The first mechanism is by the court of law. The court of law provides for the opportunity to mitigate electoral related violence in different stages of elections. One of these stages is post elections. As it can be observed in the section on mapping of the incidents of electoral related violence, to a large extent incidents happen in two elections: parliamentary and councillorship. When the stakes of elections are high and all parties have assurance to win, the chances for violence becomes high. Because of this, the likelihood of the loser to challenge the legitimacy of electoral outcomes is inevitable. This results to post-electoral related violence. Although the law prohibits to challenge presidential results to any authority once they are announced, it grants that opportunity for parliamentary and councillorship elections. Hence parties in election are likely to abstain from using violence as there is still a chance to contest the legitimacy of results in the court of law. The court is important in preventing incidents of violence during elections in several ways. These include the chance for the victim of the incidents of electoral related violence to have their complaints heard in the court for arbitration. With this mechanism in place, at least the perpetrators can face justice for the crimes that

they committed in the course of incidents of violence. Hence the fear of punishment has been forcing those with the desire to perpetuate electoral related violence, to avoid doing so.

The second mechanism is by the elections code of conducts. The elections code of conduct is a mechanism designated to curb electoral related violence, irregularities and other malpractices in Tanzania. It includes the rules that are discussed and agreed by different stakeholders of elections such as the police, EMBs, political parties, and the government for smooth conduct of elections. After the adoption of the code of conduct a number of enforcement forums, which are acting as quasi-dispute resolution and arbitration bodies, are created from national constituency to ward level. Most importantly, the NEC is recognized as an enforcer to the decision reached by these bodies. Thus, NEC¹³ has the role of mediating the conflicts, whether violent or no-violent, which arise among different political parties at the ward, constituency and national levels as well as malpractices. Political parties have been committing themselves to observe the rules stipulated in the codes. This mechanism shows a very huge potential in the mitigation of violence. Notwithstanding this, its implantation has been poor. For instance, political parties, either by design or default, regularly violate the code when it contradicts their interests. A similar problem is evident to the police force and the electoral commission. A good example can be drawn from 2010 elections. NEC enforced the code when the perpetrators of violence were from the opposition, but failed to do the same to the ruling party. In 2015, one can argue, the code of conduct was suspended as it was common for candidates and their supporters to use insults, threats and bigotry towards their opponents without any fear. Hence, unless strict legal binding, the code of conduct is unlikely to attain its effectiveness in mitigating electoral related violence despite all potentials that it holds. Another hindrance of the effectiveness of the code of conduct is the fact that it is adopted during general elections but not in by-elections –which are more violent.

The third mechanism is through the cross-party platform. One of the major challenges of multiparty and competitive politics in Africa is the conception of politics as a zero-sum game. However, in recent years there is an increased trend to reverse this conception of politics in the continent. Among the many ways that are used to achieve this is the creation of forums where political parties can interact to share issues of common interest. The Tanzania Centre for Democracy (TCD) has been playing this function. TCD is a Non-Governmental Organization of political parties with representation in the parliament. Also, parties without parliamentary representation have the chance to participate in TCD through rotation membership allocated for them. Through TCD political parties meet to discuss and deliberate on various issues related to day-to-day activities, as well as peaceful co-existence among each other. Moreover, through the TCD program team, political parties are trained on various issues: peace, gender equality, political tolerance, the rights of minorities and legal reforms. One of the successes of TCD is the forging of trust and confidence among political party leaders at the top levels. Moreover, TCD was able to bring together political parties during the constitution making debate and processes when they seem to disagree. Also TCD has been playing a role in preparing political parties towards elections through capacity building. For instance, in 2015 in collaboration with the Netherlands Institute of Multiparty Democracy (NIMD) it conducted countrywide training to all political parties on several areas related to elections. These included electoral law, dispute resolution, campaigns and training of poll agents. Since 2009 TCD conducts a post-election workshop on “Healing of the Wounds”. Political parties come together to discuss issues related to elections especially incidents of electoral related violence and the way forward towards peaceful elections in the future. Despite these success and importance, TCD is presented with challenges. First, TCD decisions are not legally binding; hence political parties may take

13 JMT (2010) MaadiliyaUchaguzikwaajiliyaUchaguziwaRais, WabungenaMadiawaniyaMwaka 2010, NEC.

part in the deliberation but not enforce it. The constitutional debate is a testimony. Political parties agreed with TCD to postpone the constitution making processes, however, the ruling party which is in control of the government refused to implement such agreement. Second, TCD has been strong at the apex but not rooted in the grassroots. Neither political parties nor leaders frequently interact at local levels. This is a big challenge as incidents of electoral related violence are more common at the grassroots than at the apex. Hence, there is still a mountain to climb for TCD to realize its full potential as mechanism in mitigating electoral related violence.

Section IV - Key Factors for Preventing Electoral Related Violence and Strengthening Early Warning Mechanisms

4.1 Preventing Electoral Violence and Early Warning Mechanisms

One way of preventing electoral violence is to establish effective mechanisms for electoral violence data gathering and analysis. The literature on conflict prevention and early warning mechanisms emphasis on having effective mechanisms of soliciting and analyzing information on conflict to inform intervention processes. Moreover, it is central in establishing warning mechanisms tools. Information on electoral violence should be available to enable its analysis and prescription of measures (UNDP, 2009). In Tanzania, however, there are trivial efforts to have data on electoral violence despite endemic of the phenomenon. There is no specific institution or program in place to collect, analyze, warn and mitigate electoral violence. Data of electoral violence is often obtained from the following: election observation reports; research studies which are conducted occasionally and with specific targets, and media reports. Data from these sources, however, are not comprehensive to inform prevention and early warning mechanisms. Whereas, as noted elsewhere in this chapter – preventing electoral violence is left to security forces which are often reactive rather than proactive, early warning tools are largely absent. Hence, to enhance prevention and early warning mechanism, it is imperative to have mechanisms for information gathering, analysis and policy prescription on electoral violence.

Moreover, there should be collaborative efforts by actors such as various government institutions, civil society and international agencies mandated to organize, support and monitor elections. They should develop special tools and methodologies to warn about, prevent and mitigate electoral violence (International IDEA, 2010; Alihodžić, 2012:58). In Tanzania, currently, actors are largely working in isolation when it comes to prevention of electoral violence and early warning mechanisms. For instance, it was until 2015 when election observation centre, named the Centre for Election Monitoring in Tanzania (CEMOT) was initiated. The CEMOT was set up in collaboration between TEMCO and TACCEO, the leading umbrella organizations of election observation in Tanzania. Despite a huge step made by creating this centre it existed only during the election period and was dissolved afterwards. Other stages of election such registration and post-election period were uncovered. Moreover, government agencies were suspicious and hesitant to work with this body. Often the police and cyber-crime law enforcement agencies issued warning that CEMOT should not involve itself in election results gathering, tallying or displaying (CEMOT, 2016). Therefore, a clear strategy and roadmap to ensure collaboration of several actors to prevent and establish early warning mechanisms of electoral violence should be put in place.

Another area which concerns prevention of electoral violence is to ensure that key stakeholders trust of the electoral system. The nature of electoral system influences the occurrence of electoral violence. When the electoral system favors certain actors and disadvantages others, then the risk to violence becomes high. Those disadvantaged by the system tend to react with violence to express their frustration or to shape the electoral processes and their outcomes. In Tanzania the electoral system

favors the incumbent at the expense of the opposition, both in theory and practice (Makulilo, 2009; Henry, 2013; 2015). Although incumbent advantage exists even in mature democracies, in Tanzania such advantage is used negatively to influence the outcome of elections in favor of the ruling party. As such EMBs, security forces, civil servants and media often exhibit an open bias to help the incumbent secure electoral victory (Makulilo, 2012). The bias is both actual and perceived. With this state of affairs, there has been mistrust towards the entire electoral system by the opposition. To prevent or minimize the risk of electoral violence, it is paramount to boost electoral actors' confidence in the electoral systems. This depends on the openness and fairness of institutions and legal mechanisms which guide elections. This process has to start with enhancing trust and confidence in an entire political system which shapes and informs the electoral system.

Again, political culture is a critical issue in preventing electoral violence. Political culture in any country, among other things, influences the occurrence of electoral violence. Parochial political culture creates a fertile ground for electoral violence as politicians use violence as a way of mobilization for support. Moreover, government agencies may be participants in violence directly or treating such violence with impunity. Studies on Tanzania's political culture have shown that Tanzanians exhibit subjective political culture (Mukandala, Baregu and Mushi, 1994). Similarly, various Afro-Barometer survey of 2002 concluded that Tanzania political culture is subject as citizens are "Uncritical to socio-economic and political processes taking place in the country" (Afro-Barometer, 2002). Thus, Tanzanians are not aware of their rights and duties. It was on this ground that the Presidential Commission of Multi-Partyism popular known as the Nyalali Commission recommended that civic education was to be provided to prepare Tanzanians into multi-party politics. The recommendation, however, was never implemented. Government and election stakeholders have been providing voters' education. Politicians, political parties and election management and administration bodies have capitalized on this deficiency to commit violence and rationalize it to voters. Voters, on the other hand, engage in violence to defend the interests of their political parties and sometimes see violence as a means of participation into election and political processes (Sulley, 2013). Therefore, to enhance prevention of political violence there should be initiatives to change Tanzania's political culture in which citizens are aware of their rights and duties and their political beliefs and behavior reflect core tenants of a democratic society. With this political culture, voters, political parties, government agencies and their personnel, as well as non-governmental organizations are expected to behave in accordance to democratic values during electoral processes and hence minimize the risk of electoral violence.

Lastly, in order to prevent violence there should be inclusion of diversities in socio-political and economic spheres. Politics in the "third wave of democracies" is characterized and shaped by exclusion from socio-economic and political spheres of life (Omotola, 2009; Collier, 2009). Thus, there is a problem of dealing with diversities. Consequently, lack of inclusion further increases a danger of conflicts (such as electoral violence) as some groups feel disadvantaged at the expense of others. In a society characterized by exclusion, elections are used as an arena to redefine access to power for political groups (Collier and Vicente, 2012). In Tanzania, socio-economic and political exclusion is on increase. For instance, the gap between rich and poor has been on steady increase since 1990's (LHRC, 2016). There are conflicts between farmers and herders fighting for farming and grazing lands across different areas of the country. Also, government and investors, especially in mining and tourism sectors, have frequently clashed with locals who demand inclusion in harnessing resources found in their areas (LHRC, 2014). Further, political exclusion has defined Zanzibar politics where Pemba has complained of being politically segregated by Unguja (Sulley, 2013). Similarly, there are religious cleavages between Christians and Muslims. A combination of these factors creates material conditions for violence during elections (Henry, 2013). At the core of these issues is the quest for inclusion. Although there have been efforts to address these

issues, most of them have failed to touch on core issues such as ensuring fair redistribution of resources, access to political positions and confidence building among diverse social groups. Electoral violence prevention mechanisms have to give primacy the aspect of social-economic and political inclusion.

Section V - Conclusions and Recommendations

5.1 Conclusion

Electoral violence is a likely phenomenon particularly in high-stakes contexts. More so, it happens if key stakeholders pre-perceive elections as not free and fair, where those seeking to retain or gain political power have few or no qualms about resorting to extraordinary measures including the use of force to win, or where underlying causes of conflict -like exclusion, inequality or a history of ethnic tensions- exist. In Tanzania, some key stakeholders, especially the opposition, perceive electoral laws and rules as unfair, and in favour of the ruling party. While electoral violence may seem to be potentially low for the Union elections, there is a high likelihood for violence to happen in Zanzibar. This is owing to high degree of competitiveness of elections, as well as the divisive nature of the society of Zanzibar. Despite the potentialities and sometimes the realities of electoral violence in Tanzania, there are no effective mechanisms which are proactive to address the situation. In other words the infrasture for peace is lacking. Only the traditional instrument of forces which are reactive to situation of electoral violence exist. As such it was challenging to entrench mechanisms for curbing electoral violence in the electoral systems. This resulted into an ad-hock and disjointed EFFORTS to address the question of electoral violence system.

5.2 Recommendations

Key stakeholders such as the government, election management bodies, and civil societies should strive to provide massive civic education so as to assist the people to be competent citizens. A competent citizen knows his or her rights and obligations. This will help in avoiding unnecessary conflicts among citizens. Moreover, the government should welcome comprehensive reforms that would separate the ruling party from the state. This would ensure fair rules of the political game. Likewise, donors should make sure that they fulfil their financial promises adequately and timely to the stakeholders. This would allow to prepare the management of elections smoothly.

Zambia

Author : Lee Habasonda



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Introduction

In 2011, Zambia went through a general election and canvassing exercise in synchronized national, parliamentary and local elections. The synchronization was partly intended to minimize opportunities and motives for organized violence. The death of the incumbent president Michael Sata in 2014 necessitated the holding of a presidential by-election. Political party cadres have historically been in the forefront of the violence during these elections in Zambia. There are several reasons that explain why elections in Zambia have become increasingly violent:

- Firstly, it appears that political parties employ violence routinely to stay in power, maintain patronage networks and protect their privileged positions and benefits;
- Secondly, to marginalize and eliminate opponents from having a share of the national cake;
- Thirdly, to conduct illegal activities that benefit them economically;
- Fourthly, to generally instil fear in the population to avoid accountability; and,
- Fifthly high levels of intra and interparty intolerance and failure to manage diversity.

As a result of increasing public awareness and media images of electoral violence, a stronger police and security presence has become part of the government programme in every election. Historically, the country has experienced many incidents of electoral violence. Consequently, Zambia requires measures to address the existing levels of electoral violence.

This chapter discusses the actors, motivation and sites of electoral violence in Zambia. It came at a crucial time in Zambian politics when the country was preparing for the 2016 polls. The chapter was commissioned with the aim of profiling election-related violence in Zambia. The chapter specifically intended to determine the typology, geographical spread, perpetrators and victims of electoral violence including consideration of the necessary preventive measures.

Defining Electoral Violence

Electoral violence refers to violence that happens during elections, the political contest being the major cause of violence. Elections may be general, presidential, parliamentary, and local government elections. Election-related violence includes violence connected to presidential elections and by-elections, parliamentary elections and by-elections, and local government elections and by-elections. Despite the legal nature of these elections, the types and political nature and circumstances of violence may differ.

Section I – Context and Driver of Electoral-Related Violence in Zambia

1. Background

From 1958, when the Zambia African National Congress (ZANC) was formed, political violence became associated with the new party. Militancy was its central feature, and it got passed on to its successor the United National Independence Party (UNIP).¹ UNIP was locked in violence with the colonialists, and the other nationalist party - the African National Congress (ANC), for support from the people. In preparation for the 1962 elections most provinces heated up, and there were violent clashes between supporters involving stoning, beatings, arson, petro-bombs and killings.²

After independence in 1964, whenever there were elections in the offing or election being held, political violence surfaced. Violence was mainly skirmishes, beatings and harassment between and among supporters of opposing parties. Violence, after 1968 general elections, became more pronounced when

¹ See Katotobwe ABC (1996) The Impact of plurality voting system on Zambian Politics MA thesis London school of economics

² Ibid

a new party, the United Progressive Party (UPP) was formed in 1971 by late Simon Kapwepwe – a former Vice President in Kenneth Kaunda’s first UNIP cabinet.³ In 1973, Zambia transitioned from a multiparty to a one-party state. Its culmination was the Choma declaration which was an attempt at managing interparty conflict in the country. The Choma declaration was the formal endorsement that there would be only one party and politicians would all work within the framework of a single party – UNIP. The “one party participatory democracy” came into being with a distinct philosophy wrapped around humanism and communist political and economic approaches. Clearly before the introduction of the one party political system in 1973, political acts of violence –mainly by the ruling party, were aimed at wiping out the opposition –largely the ANC, but the latter proved resilient. After 1973, election violence was suppressed and incidents only flared up if anti UNIP sentiments were expressed. Violence was more intraparty and directed against dissenting citizens. Other forms of conflict were largely between the government and the labour movement as well as students.

By the late 1980s, popular dissatisfaction with living standards were increasingly hard to ignore. Opposition to the government was voiced by the Zambia Congress of Trade Unions (ZCTU), led by Fredrick Chiluba, with the Church, University students, and some Parliamentarians.⁴ The high food prices, loss of jobs, poor housing, low salaries and shortfall of major commodities resulted in worsening living standards for the majority of Zambians.⁵ The socioeconomic conditions continued to deteriorate. Food riots, strike actions, demonstrations and food lootings became the order of the day. Amidst this disaffection, there was an attempted coup by Lt. Mwamba Luchembe in 1990 which precipitated the situation towards change. With the decline of the one-party state hegemony, occasioned by the end of the Cold war, a wave of popular activities resulted in the creation of a broad-based formation, the Movement for Multiparty Democracy (MMD). Transforming itself into a political party upon the reintroduction of plural politics by parliament toward the end of 1990, the MMD led the transition to democracy in 1991.

Prior to the 1991 multiparty elections there were violent sparks between the newly formed MMD and UNIP. However, violence was contained mainly because of the asymmetry between the two parties. The MMD was attracting many sympathizers and the UNIP failed to escalate the violence against them. However, within the four years of assuming power the MMD also employed violence against the UNIP. It was evident that violent elements had also wormed their way in the MMD and perpetrated UNIP’s culture of violence. Electoral-related violence continued to characterize the relations between parties before the presidential, and parliamentary elections in 1996. In between elections, conflict was party fired by youth thuggery, and attempts by the Police to stop opposition parties from mobilizing and organizing (by unfairly applying the public order act through denial of permits or disruption of meetings). The public media was used to demean the opposition thereby creating election-related tension.

Electoral-related violence was evident during the presidential, parliamentary, and local government elections held on 27th December 2001. Eleven parties contested the elections. The elections encountered numerous administrative problems. Opposition parties alleged that serious irregularities occurred. Nevertheless, MMD presidential candidate Levy Mwanawasa won by a narrow margin, and was sworn into office on 2nd January 2002. Three parties submitted petitions to the High Court, challenging the presidential election results. The courts admitted irregularities but not serious enough to have affected the overall result. Thus, the election result was upheld. Opposition parties won a majority of parliamentary seats in the December 2001 election. Subsequent by-elections gave the ruling MMD a slim majority in Parliament.

The 2006 presidential election was hotly contested, with Mwanawasa being re-elected by a clear margin over Michael Sata of the Patriotic Front, and Hakainde Hichilema of the United Party for National

3 Ibid

4 Chileshe, Zambia’s transition from one party to multiparty.

5 Ibid

Development (UPND). That same year, the parliamentary election awarded 72 seats to MMD. The remaining 84 seats were split among other parties, with the majority going to the Patriotic Front.

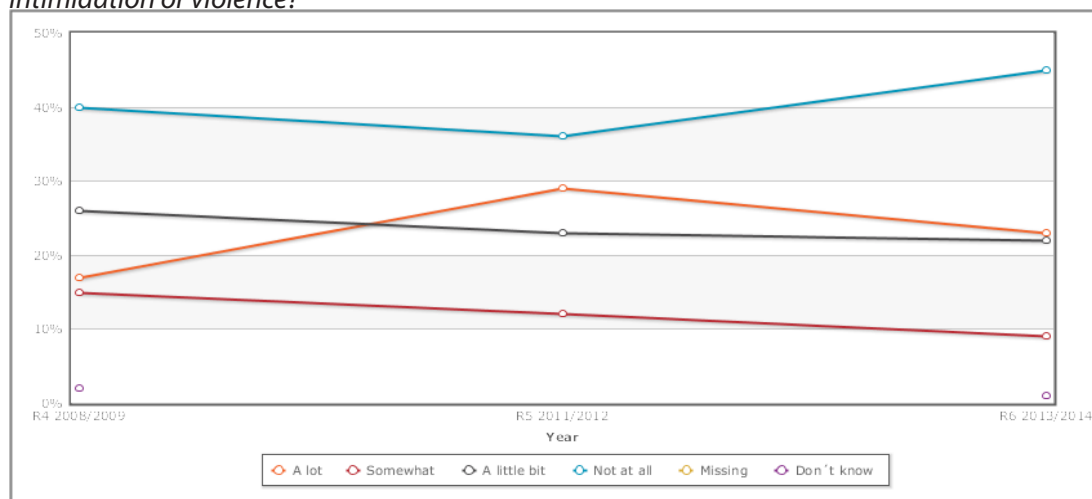
Following Mwanawasa's death in August 2008, Zambian vice president Rupiah Banda succeeded him to the office of president, to be held as a temporary position until the emergency election on 30th October. Banda won the elections by a narrow margin over opposition leader Michael Sata. Banda lost re-election in 2011 presidential and parliamentary elections to Michael Sata of the Patriotic Front, bringing to an end 20 years of ruling by the MMD.

An estimated 100 people were injured in the 2015 presidential by-elections that followed the death of Michael Sata.⁶ The capital, Lusaka was a flashpoint, with most fatalities. Much of the violence was concentrated in the city's densely populated informal settlements, where an estimated half of its residents live on approximately 3% of the city's total land area. The electoral violence that rocked Lusaka and the Copperbelt regions in 2001, 2006, 2008 is largely attributable to deeply entrenched inequalities and policy failures.

Vigilante groups mushroomed from the late 1990s in response to the worsening economy and deteriorating security in poor neighbourhoods. Urban vigilantism in Zambia has on many occasions spilled into electoral violence.⁷ Hence a close examination of the context and drivers of electoral violence in Zambia is imperative.

Illustration of electoral-related violence

During election campaigns in this country, how much do you personally fear becoming a victim of political intimidation or violence?"



Source: Afrobarometer data sets 2014-2015

The graph above shows levels of fear and confidence during various elections held between the 2008/2009 to 2013/2014 periods. Respondents indicate that the period of the 2011/2012 elections was the time when they were most fearful of violence. Violence and intimidation were characteristic of the campaigns, probably because of the competitive nature of the elections, which resulted in the MMD losing power to the opposition. Fear subsided in the 2013/2014 elections, probably because of a 90-day campaign period allowed for a presidential by-election. Conversely, the other elections were national and tripartite in nature and required extended periods of pre-election campaigning. These trends require a strategic response to the state of affairs.

⁶ TIZ election report 2015

⁷ CCMG monitoring group 2015

1.1 Context of Election-Related Violence

As in every democracy, in Zambia elections provide a means by which competition in society can be channelled into a constructive process with common rules to choose representatives of the people.⁸ Robust democratic institutions are understood as the ultimate guarantor for social peace. Electoral processes are intrinsically about the attainment of political power. In Zambia elections can be catalysts of conflict.

Since the reintroduction of multiparty politics in Zambia in the early 1990s, electoral competition for state power has become the norm. Zambia has since held six elections. The frequency of elections has generated a sense of optimism for multiparty politics. Although a worrying trend of increasing election-related violent conflict - that threatens democracy, peace and stability, has emerged.⁹

Electoral-related violence in Zambia is embedded in the political economy of patronage networks. Violence evolved in the early days of independence when the slogan "it pays to belong to the ruling party" was in currency. Consequently, over the last 50 years, any threat to the ruling party has evoked violence or intimidation. Conceptualisation of opposition politics, including criticism from civil society and citizens, as a legitimate component of democratic governance is an ongoing challenge that contributes to electoral-related violence.

Furthermore, electoral violence in Zambia is analysed within a context of continued (intra and inter) polarization of the political parties. The struggle among the ruling Patriotic Front, the opposition United Party for National Development (UPND) and others, in the 2016 general elections intensified.¹⁰ The dynamics were compounded by the recent signing of the amended constitution (2016) which includes clauses that have a bearing on the electoral process such as the 50%+1 clause which required a rerun if none of the candidates scored more than 50%. As a consequence, the general elections of 2016 provided new challenges to Zambia's security and political developments.

The Zambian economy has been growing at an increasing rate for over a decade. However, macroeconomic growth has not translated into more positive perceptions of the Zambian economy, for a majority of Zambians.¹¹ Recently, as illustrated by the 2013 Afrobarometer survey results, a turning point was reached. Zambians who said the economic conditions were good were more than those who said they were bad.

High levels of unemployment, coupled with low salaries, and poor conditions of service for most of the few people in formal employment are serious sources of concern. A rise in fuel prices and electricity resulted in price increases of essential goods and services. The closure of some mining companies, following an energy deficit in the country and low copper prices on the international market, resulted in many job losses, further weakening the livelihood opportunities for many Zambians. These developments created anxiety and may be a nurture for electoral violence. The increasing levels of intolerance by political parties could be linked to economic stress.

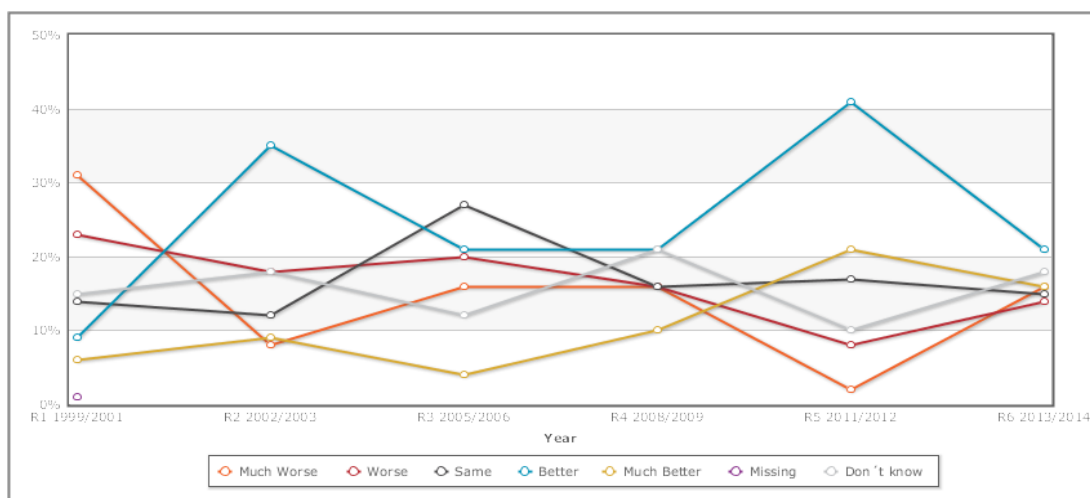
Country's economic conditions in the past 12 months

8 AU report 2010

9 Khadiagala G, political violence and election, paper presented at EISA conference 2004

10 Daily nation august 2015

11 www.afrobarometer.org.



Source: Afrobarometer data set for Zambia.

The following sections identify, define and discuss the structural challenges -such as political, security and socio-economic factors, associated with electoral violence. Further they analyse the nuances, inter-linkages and proximate risks present within the Zambian context.

1.2 Drivers of Election-related Violence in Zambia

Factors that propel election-related violence are multifaceted and diverse. They range from flawed elections to structural issues, such as poor governance, exclusionary political practices, the socio-economic uncertainties of losing political power, and challenges associated with partial democracies, to name but a few. However, it is the structural challenges that are often found outside the electoral cycle that create the potential for electoral violence, with elections either precipitating political disputes or escalating simmering tensions and acting as a trigger to violent conflict. There are several examples which illustrate these drivers of electoral violence in Zambia.

1.3 Structural Drivers

1.3.1 Political-security drivers

The first important driver of election-violence is related to the weaknesses in the structures that support democratic elections, including election laws. The current First-Past-The-Post (FPTP) or winner-take-all electoral system has been riddled with electoral corruption. "Indeed, many Zambians lament the fact that there is need to revise the flawed electoral system, so that Zambia could adopt the proportional representation¹²". It has been argued by some political commentators that the winner-take-all electoral system promotes electoral violence because "candidates at all levels of contests are often tempted to look for financial and material resources to shower their voters and supporters."¹³ This inevitably turns the system into a resource battle. Hence, they argue for adoption of the Proportional Representation (PR) electoral model, to address the perceived flaws in the current electoral system.

With the FPTP those who lose marginally do not get any seats. The PR on the other hand, is not a constituency-based system. The entire country is considered a constituency. The vote goes to political parties, not individuals. It provides all contestants a relatively fairer opportunity: if a party obtains

¹² Parliament Radio, June 16, 2015

¹³ See Reynolds 2005

25% of the total national vote, it would get 25% of the seats in parliament, theoretically. The PR has its weaknesses as well, related to poor accountability. Zambia's Constitutional Review Commission proposed the Mixed Member Proportional (MMP) system which would have addressed some of the above concerns, but unfortunately it was removed when the constitution was amended. The MMP combines the stronger attributes of both FPTP and PR.¹⁴

The public order act legislation is another structural factor that facilitate electoral-related tension in Zambia. This piece of legislation provides for the right to assemble. Unfortunately, the Police have consistently used this law selectively by denying opposition parties, and critical civil society the right to assemble, while giving the ruling party free reigns even when their purpose for assembly appears ridiculous in the eyes of the public. Opposition supporters were attacked¹⁵ and one leader of a political party was once arrested for allegedly violating the terms of the Public Order Act.¹⁶ Although not admitted, the primary perpetrators of violence appear to be the government and the ruling party, with the assistance of partisan security forces and members of the judiciary.¹⁷ Targets were opposition politicians, supporters and infrastructure. Methods used included attacks, detention, threats, unfair court verdicts, harassment, closure of offices, and breaking up opposition meetings. Violence was not always physical. It includes threats and psychological intimidation. Repression is usually subtler, and may involve the denial of state resources, or more prominently access to public media.

Flaws in the electoral process allow to skew the playing field, limit political space, prevent candidates from running, weaken the opposition, or precipitate the desire to attain power or stay in office. This has been the challenge of the opposition parties during many of the previous elections. The conditions allow for a lack of checks on the executive, a weak rule of law, partisan security forces, a judiciary controlled by the incumbent, a permissive or disinterested regional and international environment, a lack of scrutiny, a weak or fearful civil society and media. These are some of the drivers of electoral violence related to flaws in the process. Violence undermines the credibility, quality and inclusiveness of the elections. As a result, the opposition struggle to muster support, campaign or compete fairly. The violence deepens mistrust between political parties.

Intra-party violence may present a problem, especially in constituencies regarded as "safe" for one party. The state has primary responsibility for preventing violence, especially through its security forces, (and often the dominating party itself). The role of the electoral authorities regarding primaries, and the party's internal processes to determine who runs on their tickets in other electoral jurisdictions, is defined by law. In the case of Zambia, the Electoral Commission of Zambia (ECZ) has no role. The state, in particular its security forces, and political parties, not the ECZ, is responsible for preventing electoral violence.

1.3.2 Social-Economic Drivers

With regard to socio-economic drivers of electoral violence, tensions often mounted in the build-up to elections, violence flaring in many peripheral areas of the country and in the Capital, Lusaka. Many fear the spectre of all-powerful district commissioners, usurping state resources for personal enrichment and to reward their supporters. Lusaka has been spared protracted pre-election violence but it is usually the focus of any post-election tensions. Violence ignites mostly in the city's poorest neighbourhoods. Violence in these areas enmesh with wider problems of vulnerability resulting from the failure of the state to provide for basic needs in health, education and social care, as well as a lack of work and training opportunities for its young people. Unemployment, the youth bulge, and growing inequality seem

¹⁴ see Reynolds et al, 2005

¹⁵ See UPR for Zambia

¹⁶ Ibid

¹⁷ Human rights watch report 2013

to explain political youth's propensity for violence.¹⁸ The provision of public goods and services, and strengthening access to economic opportunities for an expanding youth population are vital elements of a wider-ranging strategy to address violence and strengthen security for the urban poor in Lusaka and the Copperbelt regions.¹⁹

Reducing election-related violence in poor areas, or its likelihood requires expanding access to good and reliable public services, as well as providing more opportunities for young people.²⁰ While attention is fixed on political struggles at the national level during elections, ways out of violence must be found. After the 2015 polls, a youth was shot dead while 20 others were injured in clashes between rival aspirants. In Livingstone, the elections were postponed after two people were killed in an ambush and the car of a Member of Parliament was smashed by an angry mob.²¹ In another case, violence broke out when some delegates alleged that voting materials were hijacked by local party chiefs, and some members were prevented from entering the voting area.²² At a different location the story was much the same. Perpetrators appeared to be different factions of the same political party. Methods included shootings, clashes, ambushes and vandalism. Targets or victims were rival factions, but violence can be perpetrated against objects as well as people. Some areas saw intense violence, though whether it was viewed as intense often depended on the context and levels of violence in the rest of the country.

The location of conflict depends on a history of violence, the availability of weapons, and the willingness of youth party cadres, with links to politicians, to perpetrate violence. The enabling conditions include the weak rule of law, suppliers of violence, and links between politicians and vulnerable youth groups. Impunity is a driver of electoral violence, when few are brought to justice. The effects of violence include weakening party cohesion and deepening a violent environment ahead of elections, depressing turnout and increasing opportunities for fraud.

Section II – Frequency and Geographic Spread of Election-Related Violence in Zambia

2.1 Frequency and spread of electoral violence

Election-related violence in Zambia is closely associated to the electoral cycle. Incidents of violence have been witnessed usually in the run up to the general elections as well as during by-elections. The frequency and spread is determined by electoral activity between elections. Violence intensifies to physical form if a by-election is held in the stronghold of either the ruling party or the opposition. No defined geographical pattern for violence during by-elections is manifested, though violence is mainly an urban phenomenon. Violence related to elections in rural areas is exported from urban centres where youths are taken to rural areas to intimidate and beat opponents. In a number of incidents lives were lost.

The immediate victims of election violence are usually voters, political parties and their members, and to a lesser extent electoral officers.²³ Sometimes, media houses (newspapers, radio, and television) and civil society organisations (CSO) also suffer attacks. Generally, the perpetrators of election violence are political parties and their members, who use violence to influence the electoral process to their advantage, and to prevent other political parties from rigging an election or reversing an electoral outcome that may not favour them.²⁴ Partisan security agents, such as the police and the military, have been used

18 ZAP, dynamics of the political economy of elections in Zambia (2015)

19 Ibid

20 Ibid

21 Ibid

22 Ibid

23 *Conflict trends in Africa: A Turn for The Better in 2015?* Report of the Institute for Security Studies.

24 Ibid

by the state to perpetrate election violence. The media, through unguarded and biased reporting and comments directly or indirectly instigated political parties, and their members to participate in election violence. In the intensity of political campaigns during elections, politicians may be carried away to do and say things. Intended or not, they cause injury, anger, incite the public, particularly their opponents, who may also wish to reply in similar kind thus fuelling a circle of verbal and physical violence which, generalised by the media, affect other supporters outside the campaign perimeters.

The principal sites of election-related violence in the pre-campaign phase are media or civil society locations, where critics and politicians operate from. Rivals employ their supporters, to intimidate critics with the motive to silence those who make adverse comments on their party. The campaign period has consistently been the most lethal of the Zambian electoral cycle. Individuals are targeted as they perform campaign-related tasks anywhere in any given district, at their respective campaign premises or rallies. Rivals are motivated to intimidate or physically assault candidate supporters to disrupt the campaign machinery.

The ruling political party before 2011 was implicated in using young individuals to carry out violent acts against opposition voters in opposition strongholds, and predominantly in the Pre-Election Phase. MMD as a ruling party, used these tactics more frequently than the Patriotic Front (PF) (main opposition), in part due to its access to state resources. The youth ring leaders were given payment for their services, and proceeded to identify young individuals whom they paid with funds provided by the party. According to Creative Associate International, the ring leaders and party representatives bring the youth to a gathering area where they board a bus on which there is a large quantity of alcohol. The youths proceed to drink and once intoxicated receive instructions from the ring leaders as well as party representatives, to intimidate and beat supporters of the opposition. The youths are then released in known opposition areas, and proceed to threaten opposition supporters with pangas (machetes), clubs and axes. Hence, the impact of election-related violence is often limited to the targeted opposition area.

The obvious areas where violence erupts are the highly populated urban centres in Lusaka and the Copperbelt. These are historically hotbeds where political parties jostle for numbers and influence. The clashes are more frequent in the post-general election phase particularly when there is dissatisfaction by the losers. At this stage violence involves the police as in the pre-election period, when rallies are held to promote candidates and their parties. The violence occurs in such a manner that the supporters in areas where the losing candidate has a strong base engage into acts such as burning buildings and targeting government infrastructure for destruction.

This scenario was evident in the period between 2000 and 2011 when the PF (now the ruling party) was in opposition. Coincidentally their support base was mainly urban and there was more urban violence related to elections. In the September 2006 presidential elections, the PF candidate, Michael Sata, had the early lead in official results reported. But, the reports were from PF strongholds in the Copperbelt and Lusaka area.²⁵ When the final results were announced, Sata eventually finished in third place. This reversal led to Post-Election violence where PF supporters took protest to the streets in five Lusaka townships and the Copperbelt Province.

The primary drivers of electoral-related violence in the 2011 electoral contest were parties, principally the MMD. Parties were said to pay unemployed youth and ferry them to other locations where they harassed and assaulted opponents. During the 2008 by-election, the MMD deployed groups of youth and police officers into opposition strongholds. Upon arrival, the MMD youth supporters would hold rallies in areas generally used by opposition party youths for similar gatherings.²⁶ Wanting to show support for their party, opposition youths would begin to gather and try to hold a form of rally or other type of gathering. At this juncture, the police, as ruling party agents, would then prevent the opposition

25 Creative Associates International, July 2011, Electoral Peacebuilding in Zambia – Assessment Final Report

26 Ibid

youth from holding a meeting.²⁷ The opposition youth would respond by confronting the MMD youths, at times inciting violence. This setting continued in later elections except that now the actors change but the tactics of fuelling the violence remain the same. The frequency of election-related violence is determined by the perceived threat from opposition parties by the ruling party. Whereas in the past it was MMD vs. PF, it is now PF (ruling party) vs. UPND (main opposition). Violence is ever possible wherever there are electoral campaigns although serious electoral violence has been limited in scope in Zambia.

Section III – Institutional and Legal Mechanisms for Addressing Electoral-Related Violence

3.1 General framework

As in most countries, elections are at the core of the democratic process in Zambia. The competitive and politically divisive nature of elections and their technical complexity make them vulnerable to abuse, fraud or perceptions thereof.²⁸ At the same time, elections are able to achieve the key purpose of providing legitimacy to the government if they are fully trusted and perceived to be impartial, free and fair.²⁹ Zambia has enjoyed uninterrupted peace in the fifty years that exists as a sovereign state. With the tenets of democracy as the backbone of all governance processes, the country continues to hold regular elections at local government, parliamentary and presidential level.³⁰

Nevertheless, violence has in the most recent past characterised the electoral process. The levels of inter and intra party conflict has steadily increased raising concerns of all stakeholders in the electoral process.³¹ There is need for an effective mechanism to prevent, mitigate or resolve disputes that are likely to arise in every electoral process, to preserve and when necessary restore the real and perceived equality of citizens and their representatives. This section therefore, endeavours to discuss electoral administration and the legal-institutional framework for managing violence in the Zambian electoral process.

3.2 Electoral Process

While an *electoral process* is a formal decision-making *process*, by which citizens choose a representative to hold public office, *elections* are viewed as the mechanism by which modern representative democracies operate.³² In Zambia, electoral violence mainly arises when there is political controversy and distrust surrounds the complaints and appeals procedures.³³ Elections may be an indirect cause of conflict, especially when the electoral process is mismanaged. The legitimacy of the electoral process depends on the electorates' and candidates' perception that the process is conducted in a way that is transparent and produces desired outcomes. In a democracy, there should be certainty about the process.³⁴ To ensure legitimacy, the electoral process is regulated by constitutional rules and other pieces of legislation developed to govern the behaviour of all stakeholders.³⁵

Despite the clearly stipulated rules governing the conduct of elections, the electoral process is most

27 Ibid

28 Post newspaper, 2011

29 Ibid

30 NGOCC Network, Submissions to The Committee on Legal Affairs, Governance, Human Rights, Gender Matters and Child Affairs: Position on Conflict Management in the Electoral Process in Zambia (2014)

31 Ibid

32 Jeff Fisher, "Electoral conflict and violence: a strategy for study and prevention", IFES white paper (2002), p. 1.

33 NGOCC Network, Submissions to the Committee on Legal Affairs, Governance, Human Rights, Gender Matters and Child Affairs: Position on Conflict Management in the Electoral Process in Zambia (2014)

34 Jeff Fisher, "Electoral conflict and violence: a strategy for study and prevention", IFES white paper (2002), p. 1.

35 Ibid

often punctuated by conflict between different stakeholders. In Zambia, this violence occurs in varying degrees and at different times in the electoral cycle. Zambia has witnessed both pre-and post-election conflict although the former has tended to occur at a much higher degree. The electoral cycle in Zambia involves electoral planning, enactment of legislation, voter registration, registration of political parties, the nomination of parties and candidates, the electoral campaign, polling, counting, the tabulation of results, and the declaration of results.

3.3 Institutional Framework for addressing Violence

3.3.1 The role of the Electoral Commission of Zambia

The Electoral Commission of Zambia (ECZ) is the organ mandated to carry out elections in Zambia.³⁶ ECZ is established by the Electoral Act No. 24 of 2006, its main responsibility is to manage elections. The Electoral Act No. 24 of 2006 empowers the Commission to make regulations vis-à-vis, the registration of voters, Presidential and Parliamentary Elections, Elections Offences, Electoral Code of Conduct and Penalties, Elections Petitions and the hearing and determination of applications related to Parliament. However, since electoral violence is one of the emerging elements in the electoral process, the ECZ has put in Place the conflict management Committees, at national and district levels, with the role to manage electoral conflicts and resolve disputes. This mandate is set out in section 111 of the Electoral Act.

ECZ is responsible for managing the electoral process. From the commencement of campaigns different activities unfold in anticipation of the polling day. It is during this period that conflicts arise among the different stakeholders. Conflict arises within and between the political parties, and between the electorate and the state and vice versa. Reasons for conflicts are wide and varied, and range from accusations of unfairness, sheer rivalry or failure to accepting election outcomes.³⁷ Conflicts can be graded as latent, escalation build-up of tension, and open violence. In recent years Zambia has witnessed a sharp upswing in the incidences of electoral violence. This has resulted in the destruction of property, injuries to people and in some instances the loss of lives. Unemployed youths are often the vehicles used to fan discord during the election period. This prevalence of violence resulted in low voter turnouts and discourages other stakeholders, such as women, from participating in the electoral process as voters and/or contesting as candidates. Women form the majority of the Zambian population.³⁸ Based on statistics, it is right to say that any form of violence or conflict during the electoral process tend to make women shy away from participating. This is because, generally, women tend to fear violence more than men.

Administratively, there are many causes of electoral violence. For example, the lack of validity of the result, and the right to challenge the outcome of elections can cause violence among competing groups.³⁹ The graph below illustrates the trust in the electoral commission over time (1999-2014). The result shows a relationship between incidences of violence and trust or lack of trust in the electoral commission.

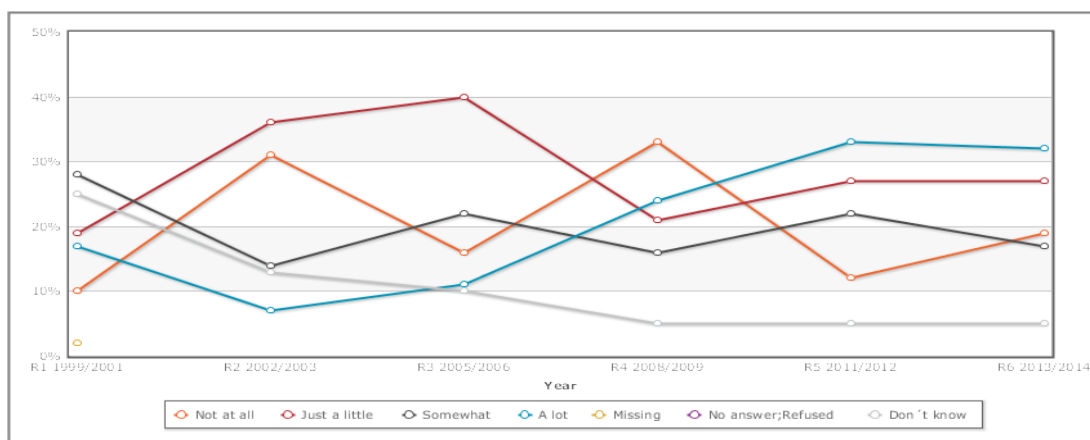
Trust in the electoral commission

³⁶ Constitution of the Republic of Zambia, Cap 1 of the Laws of Zambia

³⁷ NGOCC Network, Submissions to The Committee on Legal Affairs, Governance, Human Rights, Gender Matters and Child Affairs: Position on Conflict Management in the Electoral Process in Zambia (2014)

³⁸ Central Statistical Office, Census of Population and Housing (2010)

³⁹ Op cit.



Source: Afrobarometer data set

The occurrence of electoral malpractice by political players in the electoral process tends to create acrimony and dissatisfaction among stakeholders. The administrative action of election officials is to correct a problem, which infers the right to seek redress for violations of suffrage rights, or criminal prosecution against those who have corrupted or attempted to corrupt the election process. There is also failure to accept and respect divergent views by different stakeholders in the electoral process. Another administrative issue which causes violence is the unfair application of the Public Order Act by the law enforcement officers.⁴⁰ For instance, there were cases of the police telling the opposition not to hold a campaign rally due to inadequate human resource to maintain law and order during the proceedings, and yet allow the ruling party to hold a campaign rally at almost the same period of time.⁴¹

3.3.2 The role of the Zambia Police Service

The role of the Police is to maintain law and order while remaining impartial to all players involved in the electoral process.⁴² As a law enforcement agency, the police has an obligation to protect citizens, irrespective of political affiliation, from any form of harm. Zambia has for a long time enjoyed peaceful elections that earned her the title of being an oasis of peace, and a shining beacon of hope for many countries in the region and Africa as a whole. This image however, risks being dented if citizens engage in any form of violence in the ensuing elections. Political parties have recently demonstrated lack of brotherhood by engaging in violence as experienced prior to and during bye-elections held in the recent past.⁴³

The Zambia Police Service has endeavoured to address the problem of violence through programmes ranging from re-training of security officers, sensitization of the public to procurement of operational equipment. During the 2011 elections, the police motto was "violence free 2011 elections". In line with this motto, the police came up with a programme to re-train officers' country wide, in the management of public safety and security. In addition, the police carried out countrywide awareness programmes on the dangers of violence and excessive drinking during the election period. It is a notorious fact that uncontrolled intake of alcohol compromises one's sense of judgment and this state of mind compounded with wrong judgment, may lead one to resort to violent behaviour.

For the first time in 2011, Zambia police established a communication centre. The Centre acted as a central point for receiving all electoral-related reports or complaints from the public on security issues relating to the conduct of elections countrywide. The centre was equipped with toll free numbers

40 The Post Newspaper, September 16, 2015

41 Ibid

42 Zambia Daily Mail, July 15, 2015

43 Lusaka Times (available at www.lusakatimes.com)

for citizens to report complaints, so that appropriate institutions or stakeholders were enabled to expeditiously deal with concerns. During the 2011 elections, the Police Service received support in the sum of US\$1.8 million from the United Kingdom Department for International Development (DFID), through the United Nations Development Programme (UNDP) to ensure that the elections were held in a peaceful and secure environment.⁴⁴

However, the Zambia Police Service is criticised by sections of society for being biased in favour of the ruling party. For example, the Law Association of Zambia (LAZ) has said the political violence being experienced in the country can degenerate into chaos and create an atmosphere of fear and intimidation among voters if the Police continue to be biased in favour of the ruling party.⁴⁵ As an institution charged with the responsibility of maintaining law and order, police must behave professionally and objectively to control the situation. It is undeniable that all forms of electoral malpractices, including violence, fear and intimidation, have taken away the credibility and honour out of the electoral process.⁴⁶

3.3.3 The role of Civil Society Organisations

The CSOs represent the interests of the citizens and their role is to provide checks and balances in the system. CSOs in Zambia currently play an active role in the country's electoral process.⁴⁷ CSO leaders involved in the electoral process are usually active in the protection of human and constitutional rights. CSOs monitor and observe the entire electoral process. These organizations may submit complaints or recommendations if they discover problems or irregularities in the electoral process. The participation of CSOs in the electoral process increases the legitimacy of elections and promotes confidence of voters in the process.⁴⁸

To avoid violence in the electoral process in the future, CSOs need to continue to engage stakeholders to avoid political violence. Apparently, there is need for a deliberate normative and attitudinal process of constructing the Zambian nation.⁴⁹ The task is so enormous that it cannot be left to the exclusive domain of statutory bodies, especially now that electoral outcomes have become more controversial with narrow margins.⁵⁰ Indeed, political temperatures still remain high after the 2016 elections which demonstrated that Politicians take advantage of ethnic and social divisions to campaign for political office. Clearly the post 2016 elections have left Zambia deeply divided along ethno-regional basis. Such polarisation has shifted focus from implementing objective electoral reforms, and thereby the window for positive change is closing.⁵¹

The new laws matter because they are meant to address historical injustices. For instance, they serve the goal of political devolution, divesting resources from the centre to the periphery.⁵² CSOs and Faith-Based Organisations (FBOs) have been backing up its work. However, many deep ethnic divisions that constantly emerge during election campaigns are yet to be fully healed. Corruption and tribalism are rife in the public service. The implementation of the new constitution is slow. Some wonder whether the ruling class is really committed to implementing the new order.⁵³

44 Address to Parliament by Hon. Mkondo Lungu, Minister of Home Affairs)

45 Lusaka Times (available at www.lusakatimes.com)

46 Ibid

47 NGOCC Network, Submissions to The Committee on Legal Affairs, Governance, Human Rights, Gender Matters and Child Affairs: Position on Conflict Management in the Electoral Process in Zambia (2014)

48 Ibid

49 Zambia Daily Mail, July 2015

50 Times of Zambia October, 5 2015

51 NGOCC Network, Submissions to The Committee on Legal Affairs, Governance, Human Rights, Gender Matters and Child Affairs: Position on Conflict Management in the Electoral Process in Zambia (2014)

52 Ibid

53 Op. cite.

In this context, the religious community, FBOs and CSOs come to the fore.⁵⁴ Christianity and Islam are the two major religions which cut across ethnic divides. The experience of election violence seriously affected the church itself that in some cases became the target of violence. Religious communities must face the fact that, in spite of their message of peace and tolerance, when riots and violence occurs, it results in more deeply entrenched divisions within their own congregations. To recover the loss and heal the rifts among the congregants, FBOs such as the Evangelical Fellowship of Zambia (EFZ), Council of Churches in Zambia (CCZ) and the Episcopal Conference of Zambia started peace meetings and created forums to discuss why the image of the church was so damaged. Clergy and other community leaders have been trained with skills to address popular concerns.⁵⁵

When violence breaks out, FBOs immediately assume a positive role.⁵⁶ They play a moderating role by engaging in dialogue with the major political parties to stop the violence. They also offer spiritual support and counselling to people affected, including providing humanitarian relief.⁵⁷ The new constitution includes the principle of public participation in governance: the public must be involved in issues such as budgeting and appointment of public officers. There is scope for taking state agencies to court if they neglect the public interest (public interest litigation).⁵⁸ The public as such, however, cannot act. To wield influence, people must organise. Accordingly, FBOs and other CSOs are the main agents of public participation. They use town hall meetings, prayer meetings, rallies and pickets to inform people about important issues that affect the nation. Such exchange has contributed to healing among the communities affected by the violence, but a lot remains to be done.⁵⁹

All in all, civil society activism is remarkable. CSOs put pressure on the government to implement necessary electoral reforms to curb political violence.⁶⁰ They lobby for the enactment of the laws needed to implement the constitution. They hold the government to account for delays. Indeed, CSOs are credited for opening up the political space needed for the country to enjoy freedom.

Domestic and international election observers should include monitoring of voter registration and voter register and list compilation in their observation work⁶¹ so that their assessment of violence triggers is holistic.

The media plays an essential role in informing the public.⁶² Campaign messages are transmitted by free and paid media before elections. It is important that voters receive politically neutral information about their rights and duties related to elections. A major reason why voters miss the opportunity to vote is because they are unaware of the process and deadlines that must be followed to verify that their data is accurate on voter registers and voter lists.⁶³ The media can help by presenting information on the voter registration procedure. It can also explain why checking enrolment is important, and the steps voters can take to make sure they are eligible to vote.⁶⁴ Usually voters turn up to polling stations to vote but discover their names are not on the list leading to arguments and conflict with electoral officials.

Lastly, political parties form an enduring composition of the civil society. Political parties have no

54 Central Statistical Office

55 Times of Zambia 30th June 2012

56 Post newspaper, 17 January 2008

57 NGOCC Network, Submissions to The Committee on Legal Affairs, Governance, Human Rights, Gender Matters and Child Affairs: Position on Conflict Management in the Electoral Process in Zambia (2014)

58 Ibid

59 Op. cite.

60 Zambia Daily mail, 22 April, 2014

61 The post newspaper, August 2011

62 NGOCC Network, Submissions to The Committee on Legal Affairs, Governance, Human Rights, Gender Matters and Child Affairs: Position on Conflict Management in the Electoral Process in Zambia (2014)

63 Ibid

64 Ibid

obligations in terms of voter registration in passive registration systems.⁶⁵ It is in the interest of party representatives to observe all aspects of the electoral process including voter registration at the Electoral Commission. Political parties may also wish to send observers to check the procedure of enrolment and compilation of voter registers and voter lists. It is also in their interest to submit petitions for legal remedy in the case of irregularities or unlawful actions. The campaigns of political parties may engage in informing voters of their rights and duties⁶⁶ so as to avoid violence.

3.3.4 The role of the Judiciary

The Judiciary is one the most important institutions that functions around the electoral process. It adjudicates all cases taken for determination.⁶⁷ Cases include appeals and prosecution for electoral malpractice due to stakeholder dissatisfaction of the electoral process. The judiciary plays a pivotal role in election-related matters including adjudicating electoral violence. Due to its role, violent situations were doused through its landmark judgments on election matters.⁶⁸ The function of the judiciary in the legal system is to determine disputes between individuals or between the Government and any of its agencies and the citizens, or between two different political parties. It is generally perceived as the last hope of the common man, not because the judiciary can always be relied upon to do justice between the contending parties. In the absence of a means of adjudication, which the judiciary represents, the law of the jungle will prevail where the strong oppresses the weak.⁶⁹

There should be clear rules on the speedy implementation of the decisions of the election dispute resolution institutions, because proper and speedy implementation of the judgments of the courts is critical to the effectiveness of the entire electoral dispute mechanisms.⁷⁰ The laws should provide for specific rules of enforcement for law enforcement agents. One suggestion is that electoral tribunals and courts, with jurisdictions to determine electoral disputes, be vested with powers to enforce the judgments within a reasonable time.⁷¹

3.4 Legal Framework for Addressing Election-Related Violence

The constitutional and legal framework in place for elections in Zambia is in line with the regional and international standards for the conduct of credible elections. The framework therefore, allows the people to freely express their will. This is in conformity with the requirement by the Universal Declaration of Human Rights that provides for citizens to have the right to elect their representatives through regular elections. The main legal instruments governing elections include the following:

3.4.1 The Constitution of Zambia, 1996

According to Article 34 of the constitution, the president of Zambia is elected by direct universal suffrage and secret ballot. Presidential elections must be held whenever the national assembly is dissolved, or within 90 days of the president vacating office by resignation, death or ceasing to hold office (Article 38). The constitution lays down the qualifications for the presidency and members of parliament (MPs). Article 76 (1) of the constitution provides for the establishment of an independent and autonomous Electoral Commission of Zambia.⁷² The ECZ is the election management body and is responsible for the

⁶⁵ Times of Zambia 20th March, 2008

⁶⁶ Constitution of the Republic of Zambia CAP 1

⁶⁷ CAP 1 of the laws of Zambia

⁶⁸ Post newspaper, editorial comment, 3rd October, 2011

⁶⁹ Ibid

⁷⁰ NGOCC Network, Submissions to The Committee on Legal Affairs, Governance, Human Rights, Gender Matters and Child Affairs: Position on Conflict Management in the Electoral Process in Zambia (2014)

⁷¹ Ibid

⁷² Times of Zambia, 30th November, 2014

supervision of voter registration, conducting parliamentary and presidential elections and to delimit constituencies. Further duties allocated to the commission by legislation are to supervise referenda and to conduct and supervise the local government elections.⁷³

3.4.2 Constitutional Amendment Act No.2 of 2016

Before the 2016 elections constitutional amendments were made under the Constitutional Amendment Act No.2 of 2016. There were a number of notable changes in the amended Constitution that significantly affected the conduct and management of elections in Zambia. Firstly, and by far one of the most critical provisions was the inclusion of articles 47 and 101 which deal with Elections to the office of President. Article 47 provides that elections to the office of the president shall be conducted directly, under a majoritarian electoral system, where the winning candidate must receive more than fifty percent of the valid votes cast, and in accordance with Article 101. Article 101 provides that the Returning Officer shall declare the presidential candidate who receives more than fifty percent of the valid votes cast during the election as President-elect. In the past the winning candidate would be declared on the basis of a simple majority.

It further provides that if at the initial ballot a presidential candidate does not receive more than fifty percent of the valid votes cast, a second ballot shall be held within thirty-seven days of the initial ballot, where the only candidates shall be the presidential candidates who obtained the highest and second highest number of valid votes cast in the initial ballot or an equal number of the valid votes cast in the initial ballot, being the highest votes amongst the presidential candidates that stood for election to the office of President.

Other amendments empowered the ECZ to enforce the electoral law and electoral code of conduct such as disqualifying candidates who have breached the codes. In the past the Commission referred these breaches to law enforcement agents.

The Amended Constitution has also removed the discriminatory clause on presidential candidates which was passed in 1996 requiring a person's parents to be born in Zambia for them to qualify as a presidential candidate. It entailed that for one to be eligible to stand as President they needed to have both parents born in Zambia.

The amended constitution also stipulates the complaint mechanism for dissatisfied candidates. It provides that a person may within seven days of the declaration of the president-elect petition the Constitutional Court to nullify the election of a presidential candidate who took part in the initial ballot on the ground that the person was not validly elected or a provision of this Constitution or other law relating to presidential elections was not complied with. The Constitutional Court is mandated to hear an election petition within fourteen days of the filing of the petition. The constitutional court has been given power to decide the following after hearing an election petition;⁷⁴

- (a) Declare the election of the presidential candidate valid;
- (b) Nullify the election of the presidential candidate; or
- (c) Disqualify the presidential candidate from being a candidate in the second ballot.

A decision of the Constitutional Court is final and the presidential candidate who obtains the majority of the valid votes cast in the second ballot shall be declared President-elect.

3.4.2 Electoral Act No. 12 of 2006

⁷³ Daily Nation, April, 27, 2014

⁷⁴ See the Constitutional Court Act no.8 of 2016

This Act lays out the institutional framework, electoral system, procedures for delimiting constituencies, qualifications and requirements for candidates and guidelines on all matters relating to the electoral process.⁷⁵ The Act makes provision relating to elections to the office of President, to elections to the National Assembly, to empower the Electoral Commission to make regulations providing for the registration of voters, and for the manner of conducting elections, to provide for offences and penalties in connection with elections, to make provision with respect to election petitions, and the hearing and determination of applications relating to Parliament, and to provide for matters incidental to or connected with the foregoing.⁷⁶

The Electoral Act (2006, 110-111) gives power to the ECZ to set up conflict management committees to resolve conflict.⁷⁷ In pursuance of this mandate the Commission has established Conflict Management Committees at national and district levels. The Committees are mandated to manage and resolve electoral conflicts in a prudent and timely manner, with a view of achieving peaceful elections and mutual resolutions through mediation of conflicts that arise in the electoral process. This is done through the publication and enforcement of the Electoral Code of Conduct which regulates the conduct of the media, polling agents, political parties, monitors, observers and candidates during elections.⁷⁸

The committees attend to complaints based on alleged bias by electoral officers appointed by the commission. This is cardinal for the holding of free, fair and peaceful elections.⁷⁹ The Conflict Management Committees have power to advise the conflicting party in an election conflict, report the matter to the police for further action where a crime is committed during elections, for example, assault and recommend the revocation of accreditation of any monitor or observer to the Commission. The Conflict Management Committees may impose punishments that the ECZ determines by statutory instruments⁸⁰ (Code 2006, 15(3)).

3.4.3 The Electoral Code of Conduct of 2011

This is a legal document that provides for the Zambian electoral code of conduct. It outlines a set of principles all electoral stakeholders must adhere to, including persons wishing to be elected, political parties, media institutions, monitors and observers. The Electoral code of conduct was issued by the ECZ, which is enabled by the Electoral Act (2006, 109). Section 6 of the electoral code of conduct restricts behaviour that might lead to violence or abridge the right to freedom of campaigning. These include bans on violent behaviour or inflammatory speech, the carrying or display of arms, making false, defamatory or inflammatory allegations, arranging functions at the same time and place as a rival and impeding campaigning activities of rivals. Parties should abstain from using inflammatory language and materials and from defacing, removing or destroying materials issued by other parties or the ECZ (Code 2006, 7(2)). Party members are prohibited from disrupting or obstructing the public events of other parties (Code 2006, 7(3)). All people, including security personnel are prohibited from coercing or intimidating others⁸¹ (Code 2006, 8).

3.4.4 The Local Government Act

This is an Act to provide for the conduct of local government elections, to establish the Local Government⁸² Electoral Commission, and to specify the functions thereof, and to provide for matters incidental to or

⁷⁵ Op. Cite.

⁷⁶ Electoral Act No.12 of 2006

⁷⁷ Ibid

⁷⁸ Ibid

⁷⁹ Electoral Code of Conduct, 2006

⁸⁰ Ibid

⁸¹ Op. cite.

⁸² Local government Act of Zambia

connected with the foregoing. Part II of the Act provides for the establishment of an independent and autonomous local government electoral commission for the purpose of supervising the conduct of elections held under the Act. This commission is not subject to the direction or control of any authority. Further, the Act provides for the period of time in which elections of councillors shall be held.⁸³

However, the constitution of Zambia in Article 76 (1) provides for the establishment of an independent and autonomous electoral commission.⁸⁴ The controversial provision of this piece of legislation is that the president determines the terms of reference and appoints the commission subject to the ratification of the National Assembly and the commission reports to the president.

Electoral Act No. 12 of 2006 gives power to the Electoral Commission to set up conflict management committees to resolve election conflicts in the nation.⁸⁵ Despite the powers given to the committees, they cannot make certain decisions which are reserved for the Commission and the Judiciary. For instance, the Committees do not have powers to disqualify the candidature of any person participating in the elections, cannot declare or announce the election results, cannot order the recount of votes in case of a dispute over election results, cannot usurp the role of election officers during e⁸⁶lections, cannot fine or imprison an offender. The electoral act has not been effectively enforced. The provisions in the Electoral Act do not provide the rights for the ECZ to prosecute the offenders in the electoral process.

3.5 Election Discourse, Issues and Practices

An electoral conflict is best dealt with and resolved by institutional means, thereby contributing to stability and peace and thus reducing potential conflicts of any other kind. The laws should clearly set forth the standards for the institution of criminal proceedings in election-related cases. Specifically, the laws should indicate the standards to be used by prosecutors in deciding whether there is sufficient evidence to prosecute. Standards should be established by the election law and/or by criminal legislation. All laws and other legally binding statutes, which govern electoral conflict, should be unambiguously cross-referenced so as to ensure uniformity and consistency.

Apart from the legal mechanisms there is need for entrenching practical ways to minimize political patronage which extends to the organisation of elections in informal ways.

Appropriate mechanisms must be built into the electoral laws that allow for the prevention and proper handling of electoral conflicts. The ECZ must be granted more powers to enforce the electoral Act and regulations, and this should include the disqualification of erring candidates and political parties' participation in an election for grave violations of electoral laws. Owing to the question of how autonomous the ECZ is, there is need to create an independent institution detached from the executive that is able to execute its responsibilities with no government interference.

The conflict management committees should be given more power to make certain decisions about the management of electoral conflict. Assessing and mapping the risks of election-related violence should take into account realities of the society as a whole, not merely election-related events. An

83 CAP 1 of the laws of Zambia

84 Ibid

85 The post newspaper, 8th February 2011

86 NGOCC Network, Submissions to The Committee on Legal Affairs, Governance, Human Rights, Gender Matters and Child Affairs: Position on Conflict Management in the Electoral Process in Zambia (2014)

electoral cycle approach should be adopted focusing on, among other things, enhancing the overall efficiency of the electoral system and facilitating and promoting dialogue between the relevant local stakeholders as well as national institutions such as the judiciary, and the ECZ. The focus should be on reaching consensus about addressing election-related tensions before they deteriorate into violent conflict. To this end, ECZ management of election is a crucial determinant of a peaceful electoral process and outcome.

It is also important to enhance popular participation in elections, especially of women and disadvantaged groups. Women should be empowered to play an active role in electoral conflict management. There is generally consensus that gender issues are often on the backburner of policy discourse when they are critical to shifting some of the structural and systemic issues facing the Zambian communities.

3.6 2016 Elections Issues and Post-Election Situation

Zambians voted to elect their president on August 11, 2016. The incumbent Edgar Lungu was officially re-elected with 50.35% in the first round. His challenger, Hakainde Hichilema (47.63%) contested the results. Both the Constitutional and the Supreme courts rejected his application. Hichilema was arrested on October 5 and charged with “seditious practices” and “unlawful assembly”. He was released the day after.

On Easter Sunday, April 8, there were tensions between Hichilema’s and the Presidential car convoys. This led Hichilema to be arrested, held in solitary confinement and charged with treason. A legal battle is currently on. There is no official involvement from regional actors at this stage. The aftermath of the 2016 elections have certainly continued to present political tension and uncertainties which have placed the courts themselves on trial as many Zambians believe that they mishandled the election adjudication process. Some commentators have suggested that the new Constitutional Court judges pandered to political whims and therefore the court should be abolished because legal decisions or justice should not be political.

Section IV – Key Factors for Preventing Election-Related Violence and Strengthening Early Warning Mechanisms

4.1 Prevention of Election Violence

There are no simple explanations for causes of election-related violence in Zambia and the way they fuel the escalation. To understand the dynamics of interparty election violence a host of specific indicators need to be taken into account. These may include poverty and high unemployment, resource scarcity, disempowerment of the rural and urban poor and other groups in society as well as political and economic insecurity. A mix of variables from time to time lead to election violence.

In Zambia violence and intimidation of ordinary citizens is a wider and bigger problem that stretches way beyond the immediate election period, though it surfaces in a more pronounced way particularly after an election. Violence is related to the political party cadres and is not yet perceived and discussed in public or civil society fora (ZAP: 2015). The media carries reports about individual cases but without grasping and contextualizing it. The violence manifests itself as an extension of the political and economic patronage networks. Here, party cadres extract money from bus operators, marketers, or water collection points in the name of their party and threaten to unleash violence in case of resistance.⁸⁷ In Lusaka central bus station, operators are said to pay K5,000 per month as a ‘qualifying fee’. Each bus pays an extra K100 for each trip. Similar fees are ‘collected’ on other public commercial places (ZAP: 2014). Traders that are perceived to lean towards the opposition are expelled from market places after

⁸⁷ This and the following information are based mostly on an interview with Nicole Beardsworth, who was so kind to share with us some of her not yet published PhD research findings on political parties in Zambia.

elections, indicating that it can have severe negative repercussions if someone speaks his/her mind openly, thus making understandable the high rate of Zambians that practice self-censorship.

The practice of pressing fees from small-scale business men and women goes a long way in history. It started in the one-party era, where everyone wanting a license to operate a business needed to be a UNIP member and show his/her party membership card. In the liberalized multiparty era, the control of market places and bus stations was transformed from an instrument of repression to an income generating tool that according to Beardsworth became particularly aggressive and further spread under the PF government since 2011.

The cadres are not loyal to PF. They are ready to go with any ruling party if the conditions are favourable. It seems both MMD before and PF now vested those cadres with quite some leverage. A certain percentage of fees collected go to the ruling party but through a hierarchical structure of the party cadres which uses it to run some of its operations. Party vigilantes have ever controlled informal power centres in Zambia from 1973 during the birth of the one-party system. The change to plural politics has merely transformed their modus operandi.

This environment therefore sets the context in which some of the election violence is located and the mechanisms that can be used to prevent conflict. Clearly this has a lot to do with the political culture and any preventive measures or interventions must take into account this culture.

4.2 Structural factors

The above discussion points us to the fact that while electoral violence may manifest itself at election times, structural factors have a strong hand in the violence. The structural causes primarily include factors related to State weakness, poverty, political injustice, and economic deprivation. Thus, structural prevention should have a strong economic, human needs and governance bias, and should comprise development aid, local capacity-building, and assistance in election and human rights monitoring (Institute for Peace: 2010).

The deteriorating socio economic conditions in Zambia at the moment are instructive of the possibilities of election-related conflict in the next round of elections if little is done to stem the tide of the downward spiral of the economic fundamentals learning from Zambia's 1991 transition.

The patterns of political marginalization and disenfranchisement that manifested in the post-election phase after the 2015 elections in Lusaka, where political groups and some trading communities were economically disenfranchised because of their support for the losing party, set a level of political exclusion and alienation. Fortunately, the conflict was almost symmetrical and could not escalate because perpetrators realised it would back fire.

The combination of economic and political marginalization is certainly a sure way to build an infrastructure of violent dissent. While youths can be routinely used in the electoral and political competition, violent youths can gradually mutate into strong organizational structures that perpetrate violence during elections and beyond. The use of armed political youth cadres during elections is a source of concern for managing electoral violence. Hence preventive measures must ensure that the youths do not develop into uncontrollable organisational structures under the command of powerful politicians.

4.3 Proximate factors

The proximate causes of conflict result from poor and sometimes deliberate decisions by careless party leaders or political cadres to make divisive and contentious remarks against their opponents in a quest to gain political mileage. Sometimes they take insensitive actions. A poor leadership thrives on insecurity, vulnerability of certain groups, or ethnic and socio-economic cleavages. In these instances, electoral violence arises from reactions of opposing groups that are deliberately abused or labelled by the careless politicians. In the process force is used to intimidate opponents.

An example is the management of maize meal prices. Announcements of the price of maize meal which is a staple food, has been a trigger for political unrest once the price is seen to be exorbitant in an insensitive manner amidst economic hardships. Experience demonstrated that Zambians normally protest over maize meal, where in the process violence ensues. The commodity has high political connotations and is a serious political and election issue. Politicians can ignore it at their own peril.

Misinformation is another proximate factor that causes electoral violence. In the midst of controlled media, information is a way of propaganda and sometimes leads to undesired outcomes. Misinformation about voter registration and allegations of vote rigging have often caused pockets of electoral violence directed at electoral officials or property of the ECZ. While electoral violence incidences are sporadic during the electoral cycle, violence and anxiety adversely affect social stability and economic dynamics.

Violence occurs during elections because of the deployment of partisan state institutions, particularly the police forces and public media against opposition groups. Political and electoral violence by the ruling party includes forceful dispersals of political rallies, beating, assault, and arbitrary arrests of leaders and followers. Blatant manipulation of the electoral process, including vote buying and intimidation of voters has become part of the repertoire of sources of violence during elections with opposing parties determined to deny their opponents the opportunity to take power. In the case of Zambia manipulation is alleged to occur at the stages of voter registration and management of results. Any preventive measures must take into account these factors.

4.4 Early warning and preventive measures

Election-related violence prevention can only be carried out successfully with a multidisciplinary approach. Electoral conflicts and political violence signal “weaknesses in the governance of elections, the rules of orderly political competition and lack of impartial judiciaries to interpret and adjudicate electoral disputes.”⁸⁸ In this regard mechanisms to prevent election-related disputes and conflicts need to be aligned with the electoral cycle in a way that is long-term in approach.

In order to prevent and lessen electoral violence, Zambia undertook some reforms which involved the use of the electoral codes of conduct that govern competition among parties. It also introduced transparent ballot boxes to allay allegations of ballot stuffing. In cases where political parties use violence and intimidation to promote sectarian ends, codes of conduct helped to observe a core set of civic principles and norms. This worked to a certain extent although there is persistently lack of enforcement of these codes.

To prevent electoral violence it is important to strengthen the role of the judicial system in the administration of justice, particularly in relation to election-related matters. In Zambia, the system is confronted with serious challenges in the way in which it is structured, managed and supported. In addition, the general population frequently has a negative perception, which is often perceived as not being impartial and subject to manipulation. The management of electoral disputes within the legal framework is not helpful and there is frequently an ambiguity about jurisdiction in the settlement of disputes. For example, if one is declared a winner by mistake they will take office until the process is challenged in the court of law, despite all knowing it is a mistake. Beyond there, it will not be considered if appeal is made out of time.

As an early warning strategy, continuous exposure of political cadres to attitudinal change and economic independence sets the ground for preventing violence during elections. Clearly there is need to deepen civic education and train political leaders to be sensitive to diverse needs and interests, and to be able improve the socio-economic conditions in order to ensure that the political culture is reengineered to prevent lawlessness and promote orderly and informed political participation.

⁸⁸ See the African Union series

Section V – Conclusions and Recommendations

5.1 Conclusion

There are no simple explanations for causes of election-related violence in Zambia and the way they fuel the escalation. To understand the dynamics of interparty election violence a host of specific indicators need to be taken into account. These may include poverty and high unemployment, resource scarcity, disempowerment of the rural and urban poor and other groups in society as well as political and economic insecurity. A mix of variables from time to time lead to election violence. They range from flawed elections to structural issues, such as poor governance, exclusionary political practices, high prices of the staple food, the socio-economic uncertainties of losing political power, and challenges associated with partial democracies, to name but a few. However, it is the structural challenges that are often found outside the electoral cycle that create the potential for electoral violence, with elections either precipitating political disputes or escalating simmering tensions and acting as a trigger to violent conflict.

Perpetrators of election violence are evidently the different factions of the major opposing political parties. Methods include shootings, clashes, ambushes and vandalism. Targets or victims are rival factions, but violence can be perpetrated against objects as well as people. Some areas experience intense violence, though whether it is viewed as intense often depends on the context and levels of violence in the rest of the country.

The location of conflict depends on a history of violence, the availability of weapons, and the willingness of youth party cadres, with links to politicians, to perpetrate violence. The enabling conditions include the weak rule of law, suppliers of violence, and links between politicians and vulnerable youth groups. Impunity is a driver of electoral violence because few are brought to justice by the police particularly from the ruling party.

The effects of violence include weakening party cohesion and deepening a violent environment ahead of elections, depressing turnout and increasing opportunities for fraud. Election-related violence in Zambia is closely associated to the electoral cycle. Incidents of violence have been witnessed usually in the run up to the general elections as well as during by-elections. The frequency and spread is determined by electoral activity between elections. Violence intensifies to physical form if a by-election is held in the stronghold of either the ruling party or the opposition. No defined geographical pattern for violence during by-elections is manifested, though violence is mainly an urban phenomenon. Violence related to elections in rural areas is exported from urban centres where youths are taken to rural areas to intimidate and beat opponents.

The immediate victims of election violence are usually voters, political parties and their members, and to a lesser extent electoral officers. Sometimes, media houses (newspapers, radio, and television) and civil society organisations (CSO) also suffer attacks for expressing opinion seen to undermine a party's public perception.

One other salient factor is that party vigilantes have ever controlled informal power centres in Zambia from 1973 during the birth of the one-party system to date. The change to plural politics has merely transformed their modus operandi. But it is based on control, extortion and threats to the population. This environment therefore sets the context in which some of the election violence is located and the mechanisms that can be used to prevent conflict.

At the end of it all, peaceful elections require two key elements. Firstly, a constitutional and legal framework that provides for transparency and the rule of law when conducting elections. Secondly, a change of attitude and mind set from seeing elections as a do or die matter to one anchored on values that will promote co-existence, tolerance, development and unity in society. Those two must be implemented in between elections as they are crucial for deepening peace and stability. In order

to reduce electoral violence and political intolerance, it is necessary to emphasize the importance of building institutions rather than merely relying on legal instruments of prevention and management, or a good leader when electoral violence breaks out.

5.2 Recommendations

For conflicts to be resolved during elections:

- The new political party Act must empower the registrar of political parties to regulate party youths so that they do not develop into uncontrollable organisational structures usually under the command of powerful politicians.
- Similarly, the proposed registrar of Political parties should ensure continuous intra and inter party dialogue.
- The ECZ must build consensus on printing of ballot papers and the role of consultants during elections.
- Domestic and international election observers should include monitoring of voter registration and voter register and list compilation in their observation work so that their assessment of violence triggers is holistic.
- While it is in the interest of party representatives to observe all aspects of the electoral process, capacity of party monitors is weak and leaves much to be desired. There is need for human and financial capacity building in this area.
- The ECZ should harmonise the rules relating to the way poll results are managed and to strengthen the process of vote tabulation, announcement and the publication of results. Currently tracking the results from source and challenging them immediately once wrongly announced is practically difficult.
- The provision of public goods and services, and strengthening access to economic opportunities for an expanding youth population are vital elements of a wider-ranging strategy to address violence and strengthen security for the urban poor especially in Lusaka and the Copperbelt regions.
- The Electoral Law, apart from providing for the establishment of election dispute resolution organs, should provide for the mechanism for the resolution of election violence, and for timely enforcement of the decisions of the dispute resolution institutions because the powers of these bodies will be meaningless without functional mechanisms for the enforcement of decisions. Therefore, all laws and other legally binding statutes, which govern electoral conflict, should be unambiguously cross-referenced so as to ensure uniformity and consistency.
- While women constitute the majority of voters and eventual victims of electoral conflicts, they are less visible in the election conflict management processes. Therefore, women should be empowered to play an active role in electoral conflict management.
- It is evident that media plays a critical role in fuelling conflict including hate speech during elections. Training activities should be undertaken to mainstream conflict sensitive reporting in the media.

The role of patronage political networks must be examined closely if the root causes of violence have to be properly understood in Zambia. Apart from the legal mechanisms, there is need for entrenching practical ways to minimize political patronage which extends to the organisation of elections in informal ways.

Zimbabwe

Author : Jestina Mukoko



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Introduction

Like many Southern African states, Zimbabwe has been riddled with Electoral-Related violence, which has led to citizens questioning if elections address the underlying problems that the country faces. In 2008, specifically the elections were flawed and inconclusive resulting in widespread post electoral violence leading to the Presidential run off held in June 2008. Electoral violence is embedded in the political culture of the country whose entire history has been characterized by violence as a means to resolve disputes and influence outcomes of processes.¹

This paper seeks to look at the triggers of the phenomena of political and Electoral-Related violence, and it suggests ways and means of preventing it. Many opposition players that contest elections with ZANU-PF complained of one or the other forms of violence, which they blame for their failure to win.

Electoral-Related violence follows the entire electoral cycle, starting with the legal and institutional frameworks. Many opposition parties cry foul pointing at the uneven playing field regardless of progressive electoral laws that largely remain on paper. If efforts are to yield results, the prevention of Electoral-Related violence demands the participation of all electoral stakeholders.

Section I - Context and Drivers of Electoral Violence in Zimbabwe

a) Political/Electoral-Related Violence in Post-Colonial Zimbabwe

Since attaining independence from Britain in 1980, Zimbabwe has religiously held elections every five years for the parliament, and every six years for the President and local authorities. Elections are harmonized since March 2008. From the early years, elections in Zimbabwe are never conducted without the opposition disputing the results.

Electoral-Related violence can be defined as physical or psychological violence. It is perpetrated by sympathisers or supporters of a particular party on political rivals or others whose political affiliation might not be known in a conscious bid to force victims to toe a particular line or register support for the party of the perpetrators or their candidate. Fischer (2002:8) cited in Merilainen (2012: 4) defines 'electoral conflict and violence as any random or organized act that seeks to determine, delay or otherwise influence an electoral process through threat, verbal intimidation, hate speech, disinformation, physical assault, forced 'protection' blackmail, destruction of property or assassination.' Cited in Merilainen (2012:4) Albert (2007:133) says electoral violence is;

All forms of organized acts or threats -physical, psychological and structural- aimed at intimidating, harming or blackmailing a political stakeholder before, during and after an election with a view of determining, delaying or otherwise influencing an electoral process.

The definitions above are closely linked. Both view Electoral-Related violence as organized. Electoral-Related violence in Zimbabwe gives the impression of being organized, largely because, in different parts of the country, identical methods are used to threaten and intimidate. For example, it was common in the run up to the July 2013 elections for citizens living hundreds of kilometres apart to be threatened

¹ Tawanda Chimhini Executive Director, Election Resource Centre

with “a repeat of the June 2008 violence” if they did not vote in a particular way².

The definitions also highlight the multi-dimensional nature of Electoral-Related violence. According to Omotola (2008) the psychological dimension has to do with instilling fear through official and unofficial means. The structural dimension is seen as an uneven playing field for candidates and political parties on the one side and general imbalance where citizens are forced by government to register and to vote on the other. Citizens in Zimbabwe have been instilled with fear to the extent that being reminded of images from the past just makes them think twice about revealing dissenting or alternative views. Notorious ZANU-PF perpetrator of violence, Jim Kunaka, who headed the dreaded youth gang ‘Chipangano’ admitted instilling fear in opposition activists by threatening them with images of the past.³ Since leaving the ruling party and claiming to have reformed he is back again in the ranks and the language of violence is back in his vocabulary.

The structural dimension also refers to the abuse of office by the incumbent and the growing problem of the fading line between ruling parties and the state. In Zimbabwe, security and electoral officials have been accused of political affiliation. In a report on the by-election in Hurungwe West constituency, in response to a complaint filed by one of the candidates, the ZHRC recommends:

... police officers act in a non-partisan manner, should not further the interests of any political party or cause, should not prejudice the lawful interests of any political party or cause and should not violate the fundamental rights or freedoms of any person as enshrined in Section 208 (2) of the Constitution. (ZHRC: 2015)

b) Political Conflict Between ZANU and ZAPU

In the period between 1980 and 1987, in the contest between the liberation parties, the Electoral-Related violence was more regional and ethnic in outlook. Zimbabwe African National Union (ZANU), led by Robert Mugabe, was believed to have supporters in Mashonaland. The Patriotic Front Zimbabwe African People’s Union (PF-ZAPU), led by the late Joshua Nkomo, was largely believed to have its stronghold in the Southern parts of the country or Matebeleland. PF-ZAPU transformed from a liberation ally to a ‘dissident party’, then to a post-independence ally of ZANU in 1987 as the two signed a Unity Accord the same year. Then Prime Minister Mugabe, assumed executive presidential powers.

The conflict between ZANU and ZAPU has a history in the liberation struggle. According to Mhanda (2011), it worried leaders of neighbouring countries, in particular the late Samora Machel of Mozambique. The clashes between the military wings Zimbabwe African National Liberation Army (ZANLA) and Zimbabwe People’s Revolutionary Army (ZIPRA), which resulted in a number of deaths in Morogoro and Mgagao camps in Tanzania, demonstrated that uniting the two sides was going to be a challenge (Mhanda, 2011). Sithole & Makumbe (1997) posit that the history of violence in general and electoral violence in particular, has been a result of what they call the ‘elite cohesion’ in ZANU-PF, which is strong in the face of threats and declines when threats diminish. ‘Elite cohesion’ within ZANU-PF continues to the present day as a function of external threats in Zimbabwe’s political landscape (Sithole & Makumbe, 1997). The oscillation is seen as a measure of whether there is a strong opposition or not.

The letter that the late Nkomo wrote to then Prime Minister Mugabe while in exile in the United

² ZPP Monthly Monitoring Reports

³ Kunaka in a conversation with ZPP about shunning political violence

Kingdom, having fled the country for fear of his life, and Cephas Msipa's memoir (2015) reflect this. Msipa a member of PF-ZAPU before 1987, and an uncle to President Mugabe, admits the existence of bad blood between the two liberation leaders. Nkomo (1983) in his letter was convinced that his counterpart deliberately created conditions for instability by perpetuating tensions between ZANU-PF and PF-ZAPU. This position continued, becoming a source of electoral conflict. Nkomo speaks about how Electoral-Related violence was part of the first election in 1980. In article 97 of the letter, Nkomo relates the destabilization in the Eastern districts of the country, largely to how former ZANLA combatants terrorised villagers. The destabilization caught the eye of Lord Soames, the Governor of Southern Rhodesia⁴, who two weeks before the elections had advised that it was impossible to have 'free and fair elections' in the Eastern districts of the country. Msipa (2015) concurs, that 'there were so many cases of our youth being severely beaten in Mashonaland (1980)'. He states that when he took the matter up with his nephew Mugabe, he was referred to Ernest Kadungure who did not see anything wrong with the situation, '...such incidents occur in an election'. It is also ironic that the laws that the nationalists had detested in colonial Zimbabwe were the same laws that one freedom fighter chose to use to deal with a co-freedom fighter in independent Zimbabwe (Nkomo, 1983). On the other hand, ZANU-PF blamed Nkomo for the ethnic conflict. Dr Sidney Sekeramayi, Minister of Defence at the time, believed Nkomo had been pushed to the edge after failing to fulfil his ambition to lead Zimbabwe. Dr Sekeramayi described Nkomo as a coward, and paranoiac when he fled to exile. Prime Minister Mugabe accused ZIPRA dissidents in the Midlands province of causing the conflict, because of a definite pattern of revolt (Kriger, 1996). In early interviews in the 1980s, Mugabe strongly believed the 'dissident party and their dissident father' were a threat to his leadership.

Eventually, as the onslaught on Matebeleland and the Midlands -in search of 'dissidents'- escalated between 1982 to 1987, the two liberators had delegates shuffling between the two parties resulting in a Unity Accord in 1987. It brought the two together under the banner of ZANU-PF. It is estimated that 20 000 people perished in the disturbances that took place in Matebeleland and the Midlands, which were led by 5th Brigade trained by the North Koreans. From all this, it is evident that the electoral conflict that characterized the 1980 and 1985 elections had its roots in the liberation struggle, and continued during the demobilization of the liberation armies.

c) **Political Implications of the Merger Between ZANU and ZAPU**

The implications of the Unity between ZANU-PF and PF-ZAPU meant that there was no significant opposition to talk about. To many it seemed the establishment of a one-party state was well on its way. The merger is seen as having halted hostilities but did nothing to bring peace and reconciliation (Mashingaidze, 2005). Mashingaidze argues that the unity was imposed on the people as it was top down. The people in Matebeleland had experienced a lot of suffering, which was not acknowledged or recognised in the Unity Accord. PF-ZAPU disappeared with the Accord and with all its boldness of standing as an opposition party. When a strong opposition in the form of the Movement for Democratic Change (MDC) came on board the people in Matebeleland seized the opportunity to demonstrate their dislike of ZANU-PF by overwhelmingly voting for the opposition in 2000 and in 2002. The MDC considered Matebeleland a stronghold of its supporters until in 2013, when ZANU-PF gained ground. Considering the geographic spread and frequency of electoral violence, Matebeleland unlike other provinces experienced lower numbers of incidents. The reason could be that after the instability of the 1980s, and the overwhelming vote for the opposition from 2000, the ZANU-PF government could have

4 Lord Soames had been assigned to the country to supervise the first elections according to the agreement reached at Lancaster House

given up on Matebeleland. Having gained ground in 2013 ZANU –PF might have a different approach in the next election in 2018 as the party seeks to consolidate its win.

d) Political Implications of the Change in the Electoral System [from PR to FPTP to mixed system]

It is not clear if the change in electoral systems in Zimbabwe from PR to FPTP, then to mix PR, and First-Past-The-Post (FPTP) in 2013 had much to do with having a system that prevented electoral violence. Lindberg (2005) argues that ‘majoritarian systems are more prone to Election-Related violence than proportional representation systems because the latter provide incentives for cooperation between parties and peaceful co-existence in the longer run’. In the elections in 1979 and 1980, the electoral system was crafted in a manner that protected the participation of the Rhodesia Front. There was a common roll for the black majority and a white roll. This was a temporary measure that by all intents and purposes was breeding ground for conflict. It was meant to ensure the Lancaster agreement, and the taking over by the black majority was smooth. But it was an undemocratic way of managing electoral processes. The PR system is largely viewed as more democratic and as a mechanism effective to manage and accommodate ethnic and other fissures (Sithole & Makumbe). However, the nationalists after a protracted war of liberation felt that the PR system was a ploy by the white settlers to prevent them getting outright victory in the elections. There is a heated debate going on about this point, as no electoral system is immune from electoral violence. The choice of the FPTP after 1980, in all intents and purposes, was meant to entrench the dominance of a single party as it made every effort to work towards a one-party state. The mix of PR and FPTP in 2013 was largely meant to improve the representation of women in parliament.

e) Electoral Violence in Independent Zimbabwe

In the 1990s, the contest was more between ZANU-PF and a former cadre of the party, the late Edgar Tekere, who had been expelled from ZANU-PF. Tekere and his Zimbabwe Unity Movement (ZUM) contested the 1990 elections. Electoral violence was widespread and it was in this election that the late Patrick Kombayi, a ZUM candidate, was brutally shot in Gweru. He sustained serious injuries, which he eventually succumbed to several years later. With ZANU-PF contesting alone in 40% of the constituencies in 1995, the election was a ‘no election.’ In the 1996 Presidential election, Mugabe was as good as a lone candidate, and won by nearly 93% while his counterparts Bishop Abel Muzorewa got 4.80%, and Ndabaningi Sithole 2.44% respectively⁵. Going back a year before independence in 1979, an election boycotted by the freedom fighters took place. Mainly internal settlement allies participated, and it was the first time that the black majority enjoyed universal suffrage.

The 21st century ushered in a different phase with the coming on board of the MDC in 1999, contesting its first election in June 2000. Prior to the June 2000 Parliamentary election, Zimbabwe had gone through a constitutional referendum in February of the same year. For the first time in two decades, in the referendum, Zimbabweans emphatically rejected a ZANU-PF proposed constitution. Zimbabwe was turned into a war zone as ‘war veterans’ invaded white-owned commercial farms. Electoral violence was widespread also in the run up to the June elections. The 2002 Presidential election left about 30 supporters of the opposition MDC dead⁶. Parliamentary elections in 2005 were not as violent as the 2000, and 2002 presidential elections.⁷ However, the post-election period witnessed ‘Operation

⁵ <https://www.eisa.org.za/wep/zimresults1996.htm>

⁶ *ibid*

⁷ Refer to Annexure 1 for political violence figures recorded by ZPP

Murambatsvina' which many believed was targeted at urban dwellers who had since 2000 voted for the MDC.

The March 2008 harmonized elections did not produce an outright presidential winner. As provided for by the constitution, there was a presidential election run off in June. Electoral violence prior to the March elections was non-existent compared to the post electoral violence and the pre-June violence and post-election violence, which continued well into the New Year. Morgan Tsvangirai, of the opposition MDC, withdrew from the second round of elections a few days before the poll on the basis that an estimated 200 of his supporters had lost their lives in the violence, while several thousand had been subjected to gross human rights violations.

The elections in 2008 would not be complete without mentioning the role that the Southern African Development Community (SADC) played in the politics of Zimbabwe. SADC was forced to take action after dozens of opposition activists (including MDC leader Morgan Tsvangirai and civil society leaders), were arrested on 7th March 2007, after the police disrupted a prayer meeting. While in police custody opposition activists were brutally beaten. An emergency meeting of Heads of State and government was convened in Tanzania. South Africa was mandated to facilitate negotiations between the warring parties in Zimbabwe. The culture of violence, associated with who holds power, remained unaffected by the appearance of the images of the brutally tortured. Rather the media was awash with statements flaunting the ability to perpetrate violence again.

Then South African President Thabo Mbeki started shuttling regularly between Harare and Pretoria. The facilitator had 3 main objectives: both ZANU-PF and MDC-T had to agree on parliamentary elections in 2008, both had to agree on steps to be taken to ensure the elections as truly representative of the will of the Zimbabwean people, and lastly, the parties and other stakeholders had to agree on what measures were to be implemented and respected to facilitate a legitimate election (Raftopoulos, 2008). The concerted effort of the parties and the facilitator paid off. On 15th September 2008, bridges were built. The protagonists were on the same table and even embraced. The Global Political Agreement (GPA) was signed by President Mugabe, Tsvangirai and Arthur Mutambara. The agreement, that wanted to be the plug on the widespread violence that preceded it, did not hold as the post 27th June elections showed. Violence continued into the new year resulting in the leader of the MDC Tsvangirai leaving the country for Botswana as he feared for his life. The situation was a repeat in the history of the country, a former freedom fighter left in the 1980s. The period between the signing of the GPA and the formation of the Inclusive government in February 2009 saw a heightening of instability and the perpetration of mainly state sponsored violence, which resulted in the abduction of dozens of opposition activists and civil society actors.

When negotiations continued in 2009 and beyond, after the establishment of the inclusive government in which Tsvangirai became Prime Minister, the objectives were for the parties to agree on a new constitution and to reform electoral laws, to ensure free and fair elections in the future. In line with electoral reforms, SADC principles and guidelines on democratic elections were seen as a good starting point to enhance the transparency and credibility of elections, and to facilitate acceptance of election results by all contesting parties. Other reforms that were expected were media reforms, the issue of the sanctions, the establishment of democratic institutions, and the creation of mechanisms to facilitate reconciliation, unity and cohesion.

Electoral violence in 2013,⁸ which closed the phase of the Unity government, transformed in both profile and form. Most of those who reported violence noted widespread threats and intimidation as perpetrators reminded them of the images of the June 2008 violence. Unlike in any other election there was a large number (300k+)⁹ of the electorate who had to be assisted to vote regardless of the fact that Zimbabwe is rated highly as a literate nation. A consortium of civil society organisations assisted over 250 internally displaced persons who fled their homes in fear of violence after threats had been issued in the pre-election period¹⁰.

The Constitution of Zimbabwe provides for free and fair elections in Sections 58 and 67.¹¹ The Electoral Act, which guides the conduct of elections provides for how to respond to electoral violence whenever it occurs in Sections 133 and 134. It provides for definitions of malpractices, which include, among others intimidation¹², the prevention of a political candidate from campaigning¹³, and undue influence¹⁴.

The 10th June 2015 by-elections were called to fill vacancies in constituencies where members expelled from both the ruling ZANU-PF and the opposition MDC were subsequently recalled from the National Assembly. Electoral violence was unprecedented in constituencies where ZANU-PF felt there was a real contest. In a report responding to a complaint lodged by one of the contestants in one of the by-elections in Hurungwe West, the Zimbabwe Human Rights Commission (ZHRC) concluded that *'the possibility of a truly free and fair election in the Constituency remains remote'* (ZHRC 2015:25).

Elections riddled with violence include national elections as well as political party primary elections, where candidates to be fielded in national elections contest for endorsement. Cycles of electoral violence affected thousands of Zimbabweans, devastate whole communities leaving several hundred dead, a significant number maimed, some nursing wounds and damage to property while several thousand face internal displacement. Elections are feared by many because they bring untold suffering for most citizens as political leaders outpace each other to win the contest. Women participating in a community healing project from more than five districts of Zimbabwe namely Headlands, Chimanimani, Chipinge, Hurungwe, Gutu and Gwanda unanimously acknowledge their fear of 'elections' for the suffering that they have exposed them to.¹⁵ Political actors at both the intra and inter party levels have in the past used the approach of violence to direct voters to vote in a particular way either through overt or covert means¹⁶.

f) Drivers of Electoral-Related Violence in Zimbabwe

Electoral violence in Zimbabwe is grounded in ideological perspectives which justifies the perpetration of violence on anyone viewed as opposed to 'the revolutionary party. Elections in Africa are seen as contestation for power, which provides access to resources (Hafner-Burton et al 2012:13). Power is seen creating opportunities for wealth among those who make it to public offices, a reason to invest in electoral violence. According to Merilainen (2012), electoral violence is but one of the many illicit tactics

8 Refer to Annexure 3 for violence figures recorded by ZPP

9 ZEC report on July 2013 elections

10 ZPP Fact Sheet *Post election violence (Internally Displaced Persons)*

11 section 58 Constitution of Zimbabwe

section 67 Constitution of Zimbabwe

12 Section 133A and 133B.

13 Section 133C.

14 Section 134.

15 Profiles of women in a community healing project

16 Tawanda Chimhini, Executive Director Election Resource Centre

available for both incumbent and opposition politicians in order to influence the election outcome.¹⁷ Hoglund (2010) reaffirms this argument as she states that political leaders are seen as architects of electoral violence as they frame incentives of supporters and rivals in bi-polar terms 'us' vs 'them'. In Zimbabwe, opposition and ruling parties have come up with slogans, which are not only violent rather set rivals apart. Opposition leaders have been seen as enemies of the state and people who do not have a mind of their own but are alleged to work in cahoots with former colonial masters. Research shows that electoral violence in Africa has increased by 50% between 1990 and 2006 according to Merilainen (2012). Interparty conflict in the run up to the 2018 elections seems to play second fiddle to intra party conflict in particular in the ruling ZANU-PF party. The events in a provincial party election in Masvingo have revealed the deep tensions that could trigger violence. On realising that the faction belonging to Vice President Emmerson Mnangagwa had eclipsed the faction aligned to the First Lady the elections were nullified. When the elections were eventually rerun the margin of loss of the candidate aligned to the faction of the First Lady widened. The candidate aligned to Mnangagwa initially polled over 12 000 against more 4 000 polled by the other candidate. On the elections being rerun the candidate aligned to the faction associated with the First Lady polled just over 1 000 against 29 000 polled by the other candidate.¹⁸

Zimbabwe's electoral system of the winner takes all or first past the post, which has since the 2013 election been mixed with proportional representation, is seen as a potent driver of electoral violence.

Zimbabwe adopted executive powers for the president in 1987, and such powers are viewed as fostering fierce competition whilst putting off dialogue and cooperation amongst members of different political parties.

Another driver of electoral violence is the fact that perpetrators of violence are celebrated and are not made to account for their actions. Zimbabwe witnessed presidential amnesties that exonerated known perpetrators of electoral violence. This in turn oils drivers of violence. Incumbent leaders usually shield perpetrators of violence after an election, and at the next election the same perpetrators' footprints are noted.¹⁹

Electoral courts set up to deal with electoral petitions most of the time lack the means and autonomy to settle cases in good time. While the report and investigations into the June 2015 by-election in Hurungwe West released by the ZHRC in August were applauded, the down side is that the election went ahead on 10th June, and since then the winner has been sworn in. Rather than addressing electoral conflict and violence the report might just end up as an academic piece. Although, there is a chance of the report being used in court as the former ZANU-PF cadre has taken the matter of the malpractices in the election to a court of law.

Electoral violence in some instances is aimed at driving opponents out of the electoral race. Zimbabwe's electoral history has many candidates who have at the last minute withdrawn from the electoral race. The list includes the late Edgar Tekere and Morgan Tsvangirai.

The absence of a credible voters' register has been a driver of electoral violence in many past elections in the country and the problem continues to simmer in the background thus breeding ground for conflict.

17 *Electoral Violence as a side product of democratization in Africa: The cases of Nigeria, Kenya and Zimbabwe.... Master's Thesis Title*

18 The Standard Newspaper Sunday May 7, 2017

19 ZPP Monthly Monitoring reports

In April 2010 ZESN conducted a voters' roll audit with the objective of ridding the process of grounds for contestation. It was the opinion of the audit that 'a flawed voters' roll can disenfranchise eligible voters and allow ineligible voters to vote'²⁰ ZESN also recommended that voter registration be integrated in one office at ZEC. Voters' lists have to be comprehensive and up to date.²¹

Section II – Mapping Frequency of Election-Related Violence

The frequency and geographic spread of electoral violence in Zimbabwe can be examined from a number of electoral periods in the history of the country. The colonial period was marked by the nonexistence of universal suffrage, as only the minority whites enjoyed exercising the right to vote. Electoral violence in independent Zimbabwe has taken many forms determined by intensity, scope, frequency and geographic spread. This paper will consider a number of electoral periods in independent Zimbabwe as follows: elections in the early 1980s, the 1990s and elections in the 21st century. In the 1980s electoral violence and tensions were determined by ethnic and language differences between the Shona in the North of the country and the Ndebele in the South. The 1990s introduced a different factor, that of party politics, while the election in 2000 was driven by racial differences and to a certain extent party politics. In 2002, the presidential elections were shaped by party politics lined by racial factors. The 2005 parliamentary elections were largely party politics driven. The 2008 and 2013 harmonised elections were determined in the same way. Dzimiri et al (2014) confirm that there have been vicious cycles of both political and electoral violence since 1981. They further argue that the cycles of violence cannot be divorced from 'the ruling party hegemony and ethnic as well as racial connotations'.

The ethnic tensions between the Shona of mainly the North and the Ndebele of the South can be traced back to colonial times, the liberation struggle and in independent Zimbabwe (Sithole:1995). Ethnic tensions were noted early in 1980 between liberation leaders Mugabe and the late Nkomo. Having jointly fought the war of liberation, though from different bases in Mozambique and Zambia, they did not have a united front in the first election. By the time of the 1985 parliamentary elections there had been accusations and counter accusations between the two liberation stalwarts and their respective liberation armies that were being integrated into the Zimbabwe National Army (Ndlovu-Gatsheni:2008b). The situation in 1985 was compounded by the fact that the elections were held at the height of the Matebeleland and Midlands massacres, during which period 20 000 people mainly from Matebeleland and the Midlands are estimated to have died (CCJP and LRF: 1997). Elections in 1980 and 1985 had two rolls: the common roll for the black majority, and the white roll for the minority whites as agreed at the Lancaster House Conference in 1980²².

Dzimiri et al (2014) further suggest that racial and ethnic factors as determinants of the frequency and spread of electoral violence, are spurred on by what they call identity. While Fearon (1999) views identity as a social construct informed by rules of membership and behaviour that is expected, Deng (1995:1) concurs and adds that identity relates to how individuals and groups define themselves and how they are defined by others based on ethnicity, race, language, religion and culture. According to Bloom (1990) if a group attaches a national tag to their identity it becomes a national identity. While this paper agrees with this assertion to a certain extent, in Zimbabwe's case there is a feeling that national tags are also selfishly attached to group identities, especially where labels are used against other groups. Since 2000, the opposition MDC has been labelled a puppet of the West and sell-out, and in the recent past all those

20 ZESN Voters' Roll audit 2010

21 Global Network of Domestic Election Monitoring GNDEM on 'Voter lists audits'

22 http://peacemaker.un.org/sites/peacemaker.un.org/files/ZW_791221_LancasterHouseAgreement.pdf

within the ruling ZANU-PF, accused of being aligned to former vice president Joice Mujuru have been identified by all sorts of names in a bid to assume or justify a national tag. The national tag that united all in Zimbabwe's history was the call to fight for independence from the minority whites. In line with the argument of the national tag, and also looking at the spread and frequency of electoral violence it would not be out of purview to argue that identity also has a provincial, regional and urban/rural tag. There have been provinces which the ruling ZANU-PF has ring fenced 'no go areas' for other political players, while they have largely been seen to punish residents of urban areas through *Operation Murambatsvina* (*Restore order*) in the post 2005 elections for continuously voting for the opposition MDC-T. Identity in regional terms manifested by statements made by different people where it has been implied that the Zezuru²³ have had their time since independence and the next leader should be Karanga.²⁴ Temba Mliswa²⁵ a former provincial chairperson and Member of Parliament representing ZANU-PF, and former Finance Minister Tendai Biti²⁶ have intimated that other Shona dialects and the Ndebele should also have their day in the highest office. The national identity tag has been used in elections in 2000, 2002, 2005, 2008, 2013 and in the by-elections in 2015. The 2000 and 2002 elections to some extent, reveal the racial factor. Whites were perceived as bankrolling the newly formed MDC and campaigning against the government proposed constitution, registering massive defeat for ZANU-PF since 1980. After the results of the February 2000 referendum white commercial farmers were targeted and the racial tag drove the violence as 'war veterans' claimed back the land.

Elections in the 1990s and after 2000 conformed to conflicts born out of party politics and Dzimiriri et al (2014) concur with this. The party politics identity has been overarching over ethnicity, race and language and more recently it is the factor that is also causing the continuous split of political parties. The national identity tags as discussed earlier is renewed as a way of thwarting the challenge posed by the MDC and the MDC-T after 2005 as well as those viewed as 'plotting to overthrow' the President within ZANU-PF. Once a national tag narrative is used it automatically 'justifies' the frequency and the spread of electoral violence. Once justified it implies that state resources can be used as the state feigns to be under siege from the 'enemy'. Fearon (1999: 27) views this from the same point of view '... group violence stems from collective identity where members of society share certain norms, beliefs, desires and habits' and violent conduct is triggered by the quest to defend one's identity.

a) **Geographical Spread of Electoral Violence**

Electoral violence has been experienced in all provinces of Zimbabwe but the frequency of the incidences has been more concentrated in Manicaland, Mashonaland West, Mashonaland East, Mashonaland Central, Midlands and Masvingo. The provinces of Matebeleland South, Matebeleland North and Bulawayo in the Southern part of the country²⁷ experienced widespread violence in the early 1980s until ZANU-PF signed a Unity Accord with Nkomo's PF-ZAPU. With the elections in 2018 electoral violence might reach and affect the Southern parts of the country the same way as the Northern because in 2013 ZANU-PF gained significant ground in the Matebelelands as compared to previous elections when the MDC then the MDC-T swept all constituencies. ZANU-PF might want to defend this turf after gaining ground after a long struggle. In other years, it seemed they had given up the Matebelelands.

23 A dialect in Shona

24 A dialect in Shona

25 NewZimbabwe.com May 22, 2015 *Time to Stop Ruinous Zezuru stronghold on Zimbabwe*

26 African Arguments February 19, 2013 *Ethnic politics on the Zimbabwean campaign trail: do voters really care?*

27 See Annexure 1 for the map of Zimbabwe's provinces

The violence in 2000 targeted a lot of the white commercial farms and the areas that resoundingly voted 'no' in the February constitutional referendum. The electoral violence in 2002 and the pre-June 2008 presidential run off aimed at fencing off what ZANU-PF perceived to be its strongholds like Mashonaland West, Mashonaland Central and Mashonaland East from the opposition MDC which seemed to gain ground.

The provinces of Manicaland, Midlands and Masvingo have been hotbeds of electoral violence in elections since 2000. The cases of violence included murders, rape, malicious damage to property, abductions and displacements. In areas where there was suspicion of the existence of strong supporters of the opposition most of the violence pointed to disenfranchising them by either forcing them to flee or burning homesteads together with documentation essential for purposes of voting.²⁸ Hate language became another form of electoral violence, used by both the ruling party and the opposition in a majority of elections after 2000.²⁹ Liberation war style terror bases were used to punish those known to harbour dissenting views and they resulted in whole villages fleeing into seemingly safe urban areas³⁰.

Section III - The Electoral Administration and the Legal and Institutional Mechanisms for Addressing Electoral Violence

The ZEC, which is established according to sections 238 and 239 of the Constitution is responsible for the administration of elections. The ZEC took over the administration of elections from the Electoral Supervisory Commission (ESC) in 2004 when government responded to calls by civil society, and political parties for the establishment of a body that was in line with *SADC Principles and Guidelines Governing Democratic Elections* that had been adopted the same year.³¹ The ZEC has the function to *prepare for, conduct and supervise ... and to ensure that elections and referendums are conducted efficiently, freely, fairly, transparently and in accordance with the law.*³² It is within the power of the electoral management body to ensure that elections are devoid of electoral violence, which ultimately robs them of freeness and fairness, which are components of a credible election. The constitution provides for the electoral management body to take action with the assistance of other state departments *'to give instructions to persons in the employment of the state or local authority for the purpose of ensuring the efficient, free, fair and transparent conduct of any election or referendum.'*³³ Figure 1 illustrates the extent of electoral violations reported in 2005. This paper defines 'violations' as any physical or psychological action, or the deliberate disregard for electoral law for purposes of disenfranchising targeted citizens, while at the same time advancing the interests of a contesting candidate or political party.

28 ZPP Report March 29 Harmonized Election Post Mortem.... An analysis of trends, patterns and predictions for electoral run off May 2008

29 Ibid

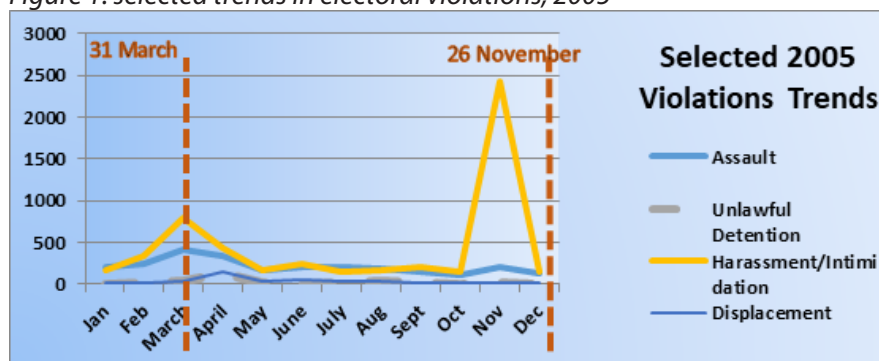
30 Ibid

31 www.zec.gov.zw

32 Constitution of Zimbabwe Section 239 (a)

33 Constitution of Zimbabwe Section 239(j)

Figure 1: selected trends in electoral violations, 2005



Source: Zimbabwe Peace Project

a) Legal institutional mechanisms for addressing electoral violence

Yeebo quoted extensively by Mapuva (2013:89) advocates for strong electoral institutions and processes in Africa. Makumbe (2009) and Mapuva (2010) concur with this argument as they explain that it was the institutionalization of violence and the politicization of the electoral administration that resulted in a delay of more than four weeks to release presidential results after the March 2008 elections. The constitution emphasizes free and fair elections but without the necessary institutional mechanisms it becomes breeding ground for electoral violence (Duodo, 2010). To facilitate for citizens to freely elect and be elected, and for clear rules and regulations that apply to all candidates and contesting parties, there is need for political will and institutional support (Hammer: 2009). The lack of identical rules in elections in Zimbabwe has resulted in opponents that do not have much influence on the electoral management body complaining and eventually failing to respect the outcome. For instance, the voters' roll was not available to all political parties in electronic form as required by law on the eve of the election in 2013. Other areas where rules have not been identical is where the ruling party enjoys use of state resources and has unlimited access to the media. In 2013 while most ZANU-PF campaign rallies were broadcast live on state television, the opposition MDC led by Tsvangirai could not afford the same service when they were given a bill.

In order to address the grounds that could breed electoral violence the ZEC has to be accorded more independence from the state as this guarantees a respect of the outcome of the elections (Mapuva, 2013).

The Electoral Act provides for how electoral violence can be addressed in Parts XVIII A and XVIII B, which respond to intimidation and politically motivated violence respectively. In sections 133H to 133K the Electoral Act is elaborate with clear provisions for addressing electoral violence. The Act provides for the special investigations committee, which involves the police, the Zimbabwe Human Rights Commission and participating political parties as well as independent candidates participating in the election. The police are bound by the constitution of Zimbabwe to maintain law and order, upholding the Constitution and enforcing the law without fear or favour.³⁴ According to section 219) 3) the police are supposed to be non-partisan, national in character, patriotic, professional and subordinate to the civilian authority.

³⁴ Constitution of Zimbabwe Section 219 d), e)

The Act also provides for the establishment of special courts that are mandated to expeditiously hear petitions related to electoral violence. In sections 133K 2) a) and b) the Electoral Act provides for sanctions that will be imposed on those who flout the rules.³⁵ To ensure that election candidates and their supporters exercise the right to be voted into office and the right to vote, candidates are bound by the electoral code of conduct for political parties and candidates. Hammer (2009; 52) posits that candidates and contesting political parties should not only be aware of the existence of such codes of conduct but they should be willing to abide them. In a video recording that went viral in the run up to the Hurungwe West by election in June, the ZANU-PF secretary for administration is heard barring from the constituency the other candidate in the election (ZHRC, 2015). This happened even as all parties knew of the existence of the electoral code of conduct for political parties.

The legal and institutional mechanisms put in place are adequate to deal with electoral violence but the situation on the ground is far from this. In Zimbabwe's electoral history there have been situations where candidates have had to withdraw their candidature because of violence targeted at them, their families or their supporters. The legal framework is clear, for the ZEC to work in partnership with the ZHRC which is mandated to direct the Commissioner General of Police to investigate cases of suspected criminal violations of human rights according to Section 243 1(h) (ZHRC Report 2015). But practically for one reason or the other the 'pieces do not come together'. Zimbabwe is still to see how those who fuel electoral violence are brought to face the sanctions provided for at law. The thin line between the ruling party and state institutions -in particular security forces- is the biggest challenge that militates against the proper functioning of the legal provisions meant to deal with electoral violence (HRW Report 2013). Mashiri (2011) believes that 'militarisation of elections' has been the common denominator since the 2002 presidential elections. Observing recent by-elections in Marondera Central in September 2015, a presiding officer interviewed about assisted voters expressed concern about the role of the police. He was of the view that assisted voters are not comfortable with the presence of the police in the booth when they exercise their constitutional right. The confidence in process and institutions in Zimbabwe is low, and a reason why electoral violence flares (International Crisis Group 2013). In past elections and by-elections in Hurungwe West, Norton, Mwenezi East, Bikita West and Chimanimani West all of which have increasingly come into the limelight, state resources were used through the perceived or suspected deployment of state security agents and other state functionaries to advance the interests of ZANU-PF. Food and other aid have been used to attract support while the political environment has remained tense and volatile. The confidence in the police and other security agents as institutions meant to address electoral violence was lost in the run up to the 2002 elections, when security chiefs 'disqualified' one of the presidential candidates when they declared they would not salute anyone without liberation war credentials.

The Zimbabwe Election Support Network (ZESN) advocates for a good legal framework to guard against electoral violence (ZESN Report, 2008) and posits that the law alone cannot address the problem at hand. A good legal framework is important but it has to be accompanied by the political will to enforce it. In past elections including the Hurungwe West by-elections one political party was always seen to have its way.

The situation prior to 2004 was seen as untenable since elections were administered from various points namely the Delimitation Commission, the ESC and the Registrar General of Voters.

³⁵ Electoral Act Sections 133A to 133K

Zimbabwe is applauded for having taken steps since 2004 to establish the ZEC which pulled most of the roles but the challenge that remains is for the electoral management body to be truly independent and transparent in the way that it operates and Birch (2008b) suggests that electoral administration should be inclusive, impartial, open and transparent. Looking at Zimbabwe the nagging issue is also the funding of not only the ZEC but other institutions set up to address electoral violence like the electoral court. Timeous response to election complaints and petitions could mitigate electoral violence that might erupt. The establishment of the ZEC is another result of the facilitation by then President of South Africa Mbeki, later replaced by Jacob Zuma. Having established that previous elections in the country had been flawed, the main objectives of the facilitation were to ensure that elections were not only free and fair for every citizen but all parties to the elections respected the outcome, while those who had exercised their right to vote had confidence in that the results represented the will of the people, thereby reducing significantly the source of electoral violence. The SADC facilitation team worked tirelessly on an elections road map with the intention of reducing all sources of conflict that might contribute to electoral violence. The SADC principles and guidelines played a pivotal role as they were a foundation that could see Zimbabwe holding undisputed elections.

Section IV - Key factors for Preventing Electoral-Related Violence and Strengthening Early Warning Mechanisms

Although many stakeholders predicted an extremely violent election in 2013, the outcome was far from being bloody. Exiting the inclusive government, the main partners to the agreement had become impatient with each other. The ZANU-PF political commissar Saviour Kasukuwere, who was then the Minister of Youth and Indigenisation said: 'It is like wearing the right shoe on the left, and the left on the right leg, you can walk but it is very uncomfortable'³⁶. Looking at the constitution it does not show that the parties anticipated a situation where they could be in a coalition government. Both the MDC-T and ZANU-PF were over confident they would go it alone.

It appeared ZANU-PF had learnt from the 2008 elections that an election with a trail of electoral violence would hardly have regional, continental and international endorsement. ZANU-PF changed its campaign strategy from overt and more physical acts of violence, to more covert and subtle forms whose bulk, were harassment, intimidation and threats. These forms of violence left no visible marks but to a large extent clawed into the psyche of the targeted. All victims could do was to talk about the forms of harassment, intimidation and threats but they had no tangible evidence to show.

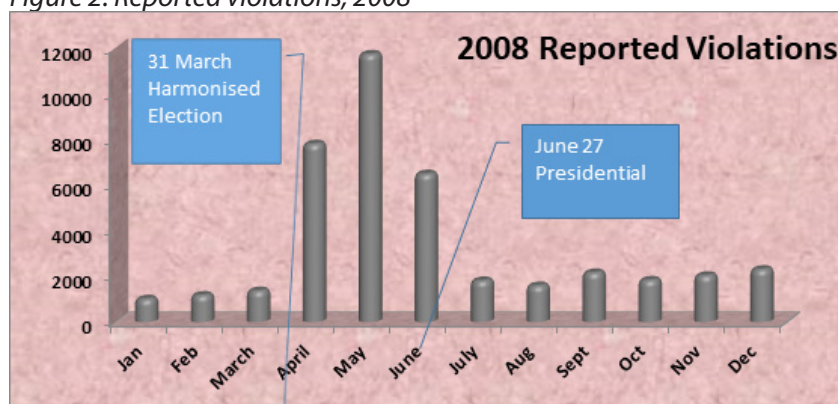
From the 2013 elections, although human rights activists continue to be concerned about the widespread instilling of fear in the electorate, one can see that structures of violence spring into action when called on to do so. Without such instruction, electoral violence is at bay. In 2005, the parliamentary elections were also relatively peaceful and the swing from unprecedented violence to subtle forms is evidence enough that electoral violence can be controlled. The power of intimidation and harassment is what the feared former ZANU-PF youth chairperson and leader of the dreaded Chipangano youth militia, Jim Kunaka, was referring to when he said members of the opposition were detained in Mbare³⁷ where he operated. When asked about how he detained them, Kunaka explained that it was enough just to threaten them with unspecified action if they tried to put up campaign posters, hold meetings and

³⁶ Minister Kasukuwere in a discussion with ZPP in 2012

³⁷ A high-density suburb in Harare

other activities expected of political parties.³⁸ Figure 2 illustrates trends in reported violations during the 2008 electoral period.

Figure 2: Reported violations, 2008



Source: Zimbabwe Peace Project

The periods of electoral violence have been different. While the 2000 and 2002 elections were associated with a lot of violence there was a marked difference in 2005 when the elections were not as violent. Violations picked during the senate elections in November of 2005. The difference in levels of violence could be attributed to a number of civil society initiatives, which advocated for tolerance and co-existence. Another reason is the fact that it had become known which were the strongholds of the opposition and those of the ruling party. The spike associated with the senate elections in November 2005 could be attributed to the infighting in the MDC which is when the first split happened over whether to support the reintroduction of the upper house in parliament or not.

The harmonized elections in March 2008 were relatively peaceful and this could be attributable to factions within ZANU-PF that wanted to see a change in leadership at the top. Several aspiring parliamentarians were accused of 'bhora musango' (which means missing the target) as they campaigned for the status quo at the level of Member of Parliament to be while they did nothing much to convince the electorate to also vote for the president and first secretary of the party. This was explained by the high votes parliamentarians garnered against the small figures for the president. Ordinarily it would make sense for the votes to be identical. The surge in cases of electoral violence in the run up to the presidential run off and in the aftermath, could be explained by the loss registered in the March elections where the strategy was to use violence and other means to instil fear so that the electorate would vote in a particular way. However, strategy was changed in the 2013 elections when ZANU-PF realized that an election littered with victims of violence was difficult to gain credibility with election observers. The strategy entailed psychological violations where harassment and intimidation were used to instil fear by referring to gross acts of violence that had been used in previous elections. In some instances, the electorate was threatened with unspecified action and from past experiences communities knew such threats were not empty.

The fact that the widespread nature of electoral violence and violence at other times has been acknowledged makes a great difference to the time when perpetrators of violence denied its existence. The establishment of the Organ on National Healing Reconciliation and Integration under the

38 ZPP interview with Jim Kunaka

Global Political Agreement,³⁹ the Zimbabwe Human Rights Commission and the National Peace and Reconciliation Commission⁴⁰ is expected to deal with the issue of political violence as a violation of human rights in general, and electoral violence specifically -focusing on how to foster cohesion and unity among Zimbabweans.

The *SADC principles and Guidelines Governing Democratic Elections* reviewed since 2015 which also encompass guidelines of the African Union (AU) are a good intervention to electoral violence, if followed to the letter and spirit, in particular: the full participation of citizens in the process, the freedom of association, political tolerance, equal opportunity for all political parties to access the media and acceptance and respect of election results. Looking at elections in Zimbabwe the most contentious issues go back to the first election in independent Zimbabwe and continue in elections taking place 3 decades later. The guidelines are elaborate on the guidelines for SADC observers, who ensure that members states holding elections safeguard the human and civil liberties of all citizens. There have been concerns about the 2013 elections. People felt that the SADC guidelines were clear but at times they were not followed as a standard to observe the elections.

The 2015 SADC review of Principles and Guidelines governing Democratic Elections injected new ways of managing elections in the region with the hope of ensuring points of conflict are minimised. Observer missions will have longer periods to assess a particular situation since the new guidelines demand early deployment and will remain for a longer period after elections, the missions will also include civil society and sanctions for flouting the guidelines and principles have been added. Free and fair has been defined to avoid confusion but how effective will these new guidelines be still remains to be seen. The sanctions are said to be considered and applied on a case by case basis and if properly articulated the guidelines would be a good basis for raising flags before conflict situations set in. Concern however is that the success of the guidelines depends on availability of financial resources which SADC hopes to raise from member states. Which member state would want to fund a process where they will be under scrutiny with possible sanctions to deal with. It is a good starting point that free and fair have been explained and hopefully for Zimbabwe in the upcoming elections the determination will be much clear than the usual 'reflects the will of the people' when citizens' rights and those of other contestants are flouted. It will be a relief to move away from general statements as for the case of the 2013 elections 'free, peaceful and generally credible.' SADC should also cease to have personalities determine how they handle situations of different countries and have their yardstick apply to all without selection. Having civil society on the observer missions and the opportunity to review reports by all stakeholders will go an extra mile in defusing mistrust between governments and civil society and in Zimbabwe's case this will go a long way since civil society felt left out in the SADC brokered coalition in 2008/2009. It is up to member states including Zimbabwe to change political culture so as to foster the strengthening of the role of SADC as a peace and security actor⁴¹. Zimbabwe's elections in 2018 will become a litmus test for the effectiveness of the reviewed principles and guidelines but SADC has to be commended for taking time to improve its standing in the region.

a) The key factors for preventing Election-Related violence

"The development of a violence free electoral system remains a work in progress that demands our commitment and our constant vigilance." These words by Ghana's Foreign Affairs Minister Hon. Alhaji

³⁹ Article VII of the *Global Political Agreement*

⁴⁰ Chapter 12 *Commissions Zimbabwe Constitution*

⁴¹ FOI Swedish Defence Research Agency

Muhammad Mumuni⁴² (Frazer, 2011) encourage countries to keep their eye on the ball to work on preventing electoral violence. The general view is that if prevention of electoral violence is left for when elections are in the horizon there is no way that it can be effective. Bradshaw (2009) concurs and argues that the management of electoral conflicts has to be mainstreamed so that there are systems that proactively respond to signs of violence. The challenge for Africa in dealing with electoral violence is the absent mediating institutions (Frazer, 2011). In Zimbabwe, most of the systems established by the legal framework have life breathed into them a few months before an election while at other times they are just not in existence, thereby making it difficult or impossible to develop a culture of preventing electoral violence before onset.

Scholars disagree on the general concept that most elections in Africa descend into conflict (Swain). Straus and Taylor (2009) analysed data sets for elections in the Sub Saharan region between 1990 and 2007, representing 213 elections, and classified 19% of all elections as serious incidents (meaning repression and campaigns of violence), 39% less severe violence (constituting harassment) and 42% with no electoral violence. Bekoe (2010) agrees that electoral violence affects between 19% and 25 % of Africa's elections and she goes on to say that an election is violent if one person is killed. While harassment, intimidation and threats are viewed as less severe electoral violence, interaction with people who have experienced these reveals that these are more potent considering their psychological effects. The targets might not bear scars and the incidents might be difficult to prove but the emotional scars on the targeted are deeply seated.

International IDEA, in its Electoral Risk Management Tool (2013)⁴³ utilises the electoral cycle as a tool from setting the legal and institutional framework to the post electoral phase as an opportunity to prevent electoral violence. Fomunyoh (2009) agrees and explains that the electoral cycle has: flashpoints among them the electoral framework, access to the public sphere or the polling day all of which provide opportunities and challenges for mediation. He goes on to argue that mediation has the advantage of being applied in privacy.

In a conference paper "Ballots or Bullets: Potentials and Limitations of Elections in Conflict contexts", Høglund and Jarstad (2010) list a number of factors as key to the prevention of electoral violence. The presence of monitors and observers and mediation as a tool to diffuse conflict in high tension situations. They contend that mediation might be the answer where the legal framework is weak or insufficiently developed. The legal and institutional framework is noted as the ground for creating conditions that discourage violence. While it is noted that legislation can be promulgated against the practice, it is easier for overt forms of violence and much more problematic for covert forms⁴⁴. The enforcement of laws without selection is put forward as a significant factor contributing to preventing electoral violence. However, the tragedy for Zimbabwe are weak institutions which at times lack professionalism while the gapping flaw is impunity. Voter focused strategies are put forward as a solution looking at the long term, and sustainable aspect rather than the ad hoc and short term. Another elections guru Gienath (2008) raises the bar on Electoral Management Bodies (EMB) as a factor to prevent electoral violence emphasizing the importance of their independence, transparency and access to resources.

Mosotho Moepya of South Africa's Independent Electoral Commission (IEC)⁴⁵ is of the view that the

42 Conference on Preventing Electoral Violence in Africa March 2010, Ghana

43 The Guide on Action Points for the Prevention and Mitigation of Election-related Violence

44 Tawanda Chimhini, Executive Director Election Resource Centre

45 EISA Symposium 2009, Preventing and Managing violent Election-Related conflicts in Africa: Exploring good practices.

legislative framework is critical to the prevention of violence during elections. He specifically brings to the spotlight the relation between Party Liaison Committees (PLC) and the EMB, which he views as a political cooperation mechanism contributing to the prevention of electoral violence in South Africa. The legal framework in Zimbabwe has provided for the establishment of the same kind of committees. From what Moepya says the difference lies in the fact that in South Africa the PLCs seem to interact with the EMB with advice on how to approach conflict between parties and within parties. Although the PLCs have no decision-making mandate, he admits they are established at every level and they promote transparency through consultation all feeding into promoting trust. The PLCs in South Africa are consulted on voting district boundaries, identification of polling stations and the selection of presiding officers.

In contrast to the situation in South Africa, in Zimbabwe the code of conduct of political parties, and of multi-party liaison committees needs to be reviewed. Besides the review of the code of conduct there is urgent need for the provisions of the code to be enforced. The code of conduct is in line with international practice. The sad reality for Zimbabwe is that the EMB, which plays a critical role in preventing electoral violence is not fully mandated to enforce the code. If used properly, multi-party liaison committees could work towards accountability on the part of political parties⁴⁶.

The elaborate distinction between conflict and competition in elections is the highlight of Dr Gavin Bradshaw's presentation⁴⁷. The orientation of competition determines how conflict can be resolved (either through negotiation, or through other means for a deeper-seated value based competition).

ZESN⁴⁸ believes that the electoral framework can guarantee credible elections but their concern is the enforcement of all the set-out provisions because of political and other interference.

Electoral systems in use can be a key factor in preventing violence. The narrative of elections in early years in Zimbabwe are testimony to this. The elections during the colonial period were based on the PR system but obviously, that system did not address the conflict with the nationalists who wanted universal suffrage. The 1980 elections eventually had more parties getting seats, a situation, which disappeared in the 1985 elections when the FPTP became the electoral system. The ability of a system to include more parties facilitates prevention of conflict. People do not feel left out and there is an inbuilt system that works to prevent the amassing of power by one single party that eventually has monopoly on the legislature and in government. Using the PR system in the 2013 elections (although combined with the FPTP) helped preventing fissures, in particular from women whose representation was significantly improved. Using party lists, the PR system contributed to having opposition parties improving their representation in the national assembly although they were left out of cabinet.

Based on the experience in the Hurungwe West by-election, the ZHRC view is that a massive deployment of police and other security arms escalates conflict. ZHRC recommendation to scaling down the presence of the police and the army, in Hurungwe West, contributed to improve the volatile situation. Further, the constant interaction and dialogue between all institutions established to facilitate the respect of citizens' rights contributed to transparent, and credible elections.

A credible voters' register that is accessed by all concerned has the ability to deal with some issues that might cause electoral violence. Zimbabwe has an opportunity for a clean voters' roll with the use of

46 Tawanda Chimhini, Executive Director Election Resources Centre

47 *Ibid*

48 ZESN report Mudzi West by election March 2015

Biometric Voter Registration. The understanding of the system is varied with some thinking it will be a breeding ground for rigging and the disenfranchisement and intimidation of others. Stakeholders have been concerned about how the BVR kits are going to be procured. For a while stakeholders understood the procurement of the kits would be handled by UNDP but the government has assumed responsibility of the procurement. Tenders for the kits have been considered and those selected have brought in their products for validation. The fear of electronic gadgets is real among opposition political parties some of which have indicated Zimbabwe adopt the system of presenting just their identity document like in independent Zimbabwe's first election. The adoption of technology which is also recommended in the reviewed guidelines is a best practice however some are concerned about the intimidation that could arise from the use of such gadgets if citizens have not been made aware and build confidence in the use of the BVR. The loophole is that the gadgets could be used to threaten the electorate that if they do not vote wisely someone somewhere will know how they would have voted.

b) Strengthening early warning mechanisms

Early warning is defined as a mechanism designed to avoid or minimize violence, deprivation or humanitarian crises that threaten the sustainability of human development⁴⁹. To further explain, the Kofi Annan International Peace Keeping Training Centre (KAIPKTC) sees early warning as rooted in the concept of human security and the principle of the responsibility to protect.

Woocher (2011) contends that early warning is critical in the prevention of electoral violence. According to Tirumeh (2010) the mechanism is central to the provision of timely advice on potential conflicts and threats to peace and security. Thus, it prevents or limits the destructive effects of violence depending on the stage of the conflict. According to Lund (1996) three steps of conflict could be identified: structural tensions or instability, escalation, and crisis or war. With structural tensions or instability, the crisis is predicated to take place in the future. There are opportunities to use early warning to prevent the crisis from happening or reducing its impact. In the second situation of escalation, prevention is in between because this is when all preparations for the conflict are put in place. Preparations could involve the training of militias, equipping them with arms, or the passing of legislation meant to curtail the activities of opponents. In the last category, of crisis or war, prevention is no longer possible because the crisis is fully blown.

The most critical stage in developing early warning and response mechanisms is the first, where signs of conflict deteriorating are detected. The knowledge of structural tensions and instability cannot be over emphasized. Before the eruption of fully fledged electoral violence there are always signs of bigger things to come, and this is when stakeholders need to appreciate nipping the problem in the bud. However, looking at information on hand, this is also the stage where most perpetrators of electoral violence do not want to admit the existence of structures of violence. The denial by any of the stakeholders of the existence of such structures just frustrates efforts to strengthen early warning and response mechanisms. The process also requires political will and the respect of all laid down processes otherwise it can be still born.

According to Lund (1996), early warning can only be effective as a mechanism if it is married to early response. The mechanism is strengthened by structural risk assessments, which are important in the identification of opportunities to address structural problems. The early detection of electoral violence

49 The Centre for International Development and Conflict Management, *Conflict Early Warning and Early Response for sub Saharan Africa* September 2000

provides more opportunities for intervention. The process of structural risk assessments requires all stakeholders to be honest about the prevailing situation so that plugs can be pulled to reverse. It would be worthless for risk assessments to be done where the exact situation is not known as this could misdirect the efforts.

According to Lund (1996), early warning mechanisms could be strengthened by involving multi sectorial interests. This kind of work cannot be left to one organization or institution. There are pivotal steps that need to be followed to ensure a strong mechanism, among them the continuous observation and monitoring of a situation. In many parts of Africa, civil society organisations have established situation rooms, which have been pivotal in assessing the situation as it unfolds. For such activities to be strong and effective, bridges have to be built between civil society organisations and critical state institutions, so that if the situation room becomes aware of something, action can be taken by calling the appropriate institutions to act. Continuous monitoring and observation should be tightened closer to the elections. Before then, a number of players could be involved in monitoring and observing a situation. Historical information can be used to predict future electoral hotspots. Areas likely to be hotspots should be mapped to make monitoring easier for stakeholders. Being informed by the post 2007 electoral violence that wreaked havoc in Kenya, in 2010 an early warning mechanism was put in place as a strategy to mitigate violence. The Ulwiano (meaning cohesion) platform was set up to monitor and observe tensions, hate speech, incitement to violence ahead of the 2010 constitutional referendum.

In order to be strong and effective, an early warning mechanism has to provide information, and invest in the analysis of available information. Interpretive information can be shared with policy makers. Another approach that could strengthen early warning mechanisms is the generation of analytical reports using scenario planning. According to Woocher (2011), the mechanism is a long-term process. For it to be effective, it cannot be set up in a hurry and expected to deliver results since the issue of analysis of information is essential. Strong early warning systems need the buy in of multiple stakeholders, as in most cases some are charged with the response, which is a critical aspect of the mechanism. Strong mechanisms allow for the buying of time to prepare for not only short-term containment and relief strategies but to provide the basis for building support for longer-term proactive initiatives with the ability of curtailing future violence⁵⁰. A strong early warning mechanism has the advantage of detecting latent conflict before it erupts out of control.

Section V – Conclusion and Recommendations

Conclusion

The Zimbabwean government has to be commended for progressively reforming electoral laws, and for taking heed of recommendations emanating from civil society, local, regional and international observers. Zimbabwe has harmonized elections, results are pinned outside polling stations, the ZEC has been established and laws have been promulgated with the aim of resolving conflict. More needs to be done. Existing laws have to be applied and enforced without selection. The establishment of other democratic institutions like the Zimbabwe Human Rights Commission are steps in the right direction but the government should ensure that institutions are not there just to satisfy checklists. ZEC has

⁵⁰ The Centre for International Development and Conflict Management, *Conflict Early Warning and Early Response for sub Saharan Africa* September 2000

initiated Electoral Dispute Resolution mechanisms by bringing stakeholders to a conversation on the matter. It remains to be seen how suggested strategies will be rolled out in the 2018 elections.

Electoral violence continues to gnaw at the fabric of Zimbabwean elections, as seen by the way that Hurungwe West turned into a war zone in June 2015 when the ruling party sensed the challenge of a former legislator who filed to contest as an independent. Subsequent by elections in Bikita West, Chimanimani West, Norton and Mwenezi East have shown how the electorate can be subjected to violence and authorities not taking the necessary steps to curtail this by using the provisions of the Electoral Act.

Scholars have rightly argued that electoral violence in Africa cannot be viewed in the same way. Severe incidents are noted in not more than 20% of elections. It is important to call out the fact that the not so severe incidents cause untold suffering to citizens. In focus group discussion with women who were repeated victims of electoral violence in Gwanda in Matebeleland South, one of them reported that she had not been physically harmed. She explained that what the perpetrators did left an indelible mark that had impacted her life permanently. She had a shop. Fearing physical harm, the family had moved to the mountains. While they were in the mountains, her shop was looted and rodents ravaged the blankets that the family had taken with them. 2008 was an economically difficult year in Zimbabwe and the family has never been able to restock the shop after the incident.

Zimbabwe has experienced electoral violence in all its elections since independence. It could be argued that the scope and profile of the violence has differed and has been influenced by different factors, from ethnic/language, identity, party politics, ideology and race. Electoral conflict and /or violence is triggered by the selective way that the legal framework is interpreted. Stakeholders concur that the legal framework can deliver free, fair, transparent and credible elections. The biggest challenge however is the institutional framework, which although set out to be impartial is interfered with mainly by the incumbents at the expense of other critical actors. While most election observers were quick to give the 2013 elections a clean bill of health, the impact of harassment, intimidation and threats was never considered. The violence in 2013 was nothing compared to the electoral violence in 2008 and any other periods before that. The Southern African Development Community (SADC) congratulated Zimbabwe for holding 'free and peaceful harmonized elections' falling short of pronouncing them as fair. On the other hand, the African Union concluded that 'the voting was carried out in an atmosphere devoid of violence, harassment, and disturbances'. When electoral violence does not leave a physical mark on the victim it is hardly considered violence. It is time that psychological marks are considered, as they determine how a victim eventually exercises the right to vote guaranteed by the constitution.

Anyone can be a perpetrator of electoral violence and anyone can be a victim of electoral violence. Over the years, the majority perpetrators have been the ruling ZANU-PF and their sympathisers and supporters, while those wishing to challenge their hegemony have been the majority victims. Electoral violence has affected all parts of Zimbabwe. After the first decade of independence violence has been more extensive in the North of the country largely seen as a stronghold of the ruling ZANU-PF party. There has not been a level playing field for all in elections in Zimbabwe.

With the 2018 elections lurking in the horizon it is possible to prevent electoral violence. Early warning and response mechanisms work if they are established properly. Zimbabwe has been holding elections religiously every time they became due but this falls short of fulfilling one of the pillars of democracy if the elections are not free and fair. Before the 2018 poll, it is time for introspection and commitment to ensuring the conduct of violence free elections.

Recommendations

The Constitution provides for regular elections and referendums, which have to be held free from violence and other electoral malpractices⁵¹. Regionally, SADC⁵² is clear about holding regular elections that provide a conducive environment for free and fair elections, and that enables the participation of all eligible citizens. The AU believes the holding of democratic elections is critical in conflict prevention, management and resolution⁵³. The following recommendations have the potential of preventing electoral violence in Zimbabwe:

- Impartial enforcement of provisions enacted to manage conflict and electoral violence
- Setting up of institutions according to electoral provisions to mitigate electoral violence and allow for conducive political environment
- Strengthen the relationship between the multi-party liaison committee and ZEC (In South Africa such committees are consulted in a bid to diffuse conflict)
- Resourcing of the electoral court to expeditiously dispense of matters before it
- Resourcing of ZEC as a precondition to fulfilling its mandate of conducting elections efficiently, freely, fairly, transparently and in accordance with the law
- ZEC independence will translate into citizens and other stakeholders having confidence in the EMB
- ZEC should take over and manage the voters' roll and ensure a clean roll
- The presence of police details at polling stations should be reviewed
- The role of the police in assisting voters should be relooked at
- A swift alignment of electoral laws to the Constitution should be undertaken
- ZEC to ensure voter education is comprehensive and involves all stakeholders
- ZEC should team up with ZHRC and other stakeholders to set up an early warning and response mechanism well ahead of the 2018 elections
- A timely announcement of results reduces speculation and suspicion
- The incumbents, should refrain from using state resources for electoral campaigns or have services provided which other parties have no access to.
- Cherry picking of observers should be curtailed
- ZEC should educate voters to progressively speak up their fears
- ZEC should regulate and enforce the legal framework for the access to media

51 Section 155 (1) (d)

52 SADC Principles and Guidelines governing democratic elections

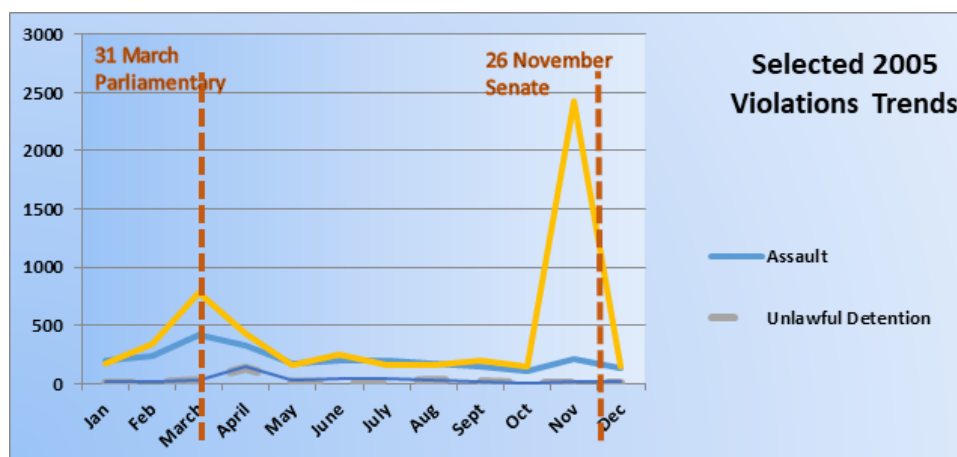
53 AU Principles governing democratic elections

Annexures

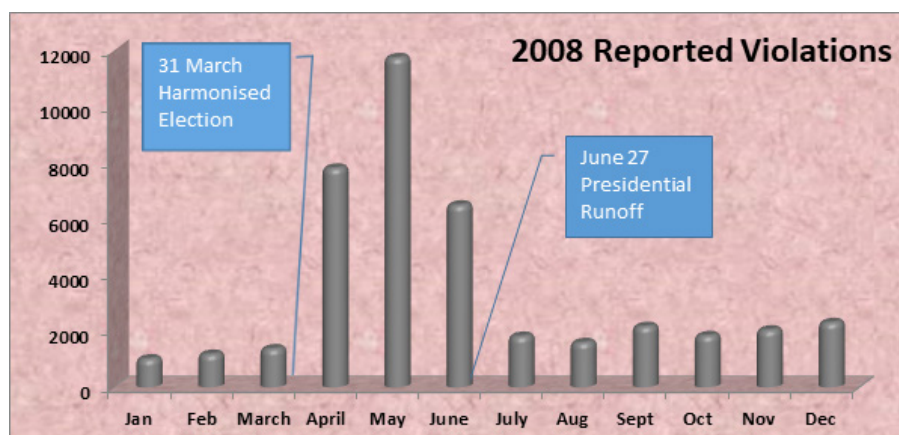
Annexure 1 : 2005 Violations and Violence



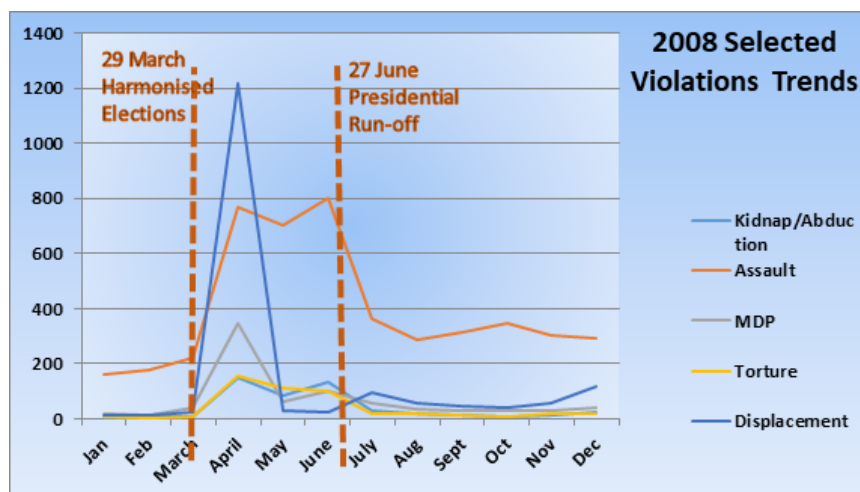
Source: Zimbabwe Peace Project



Source: Zimbabwe Peace Project

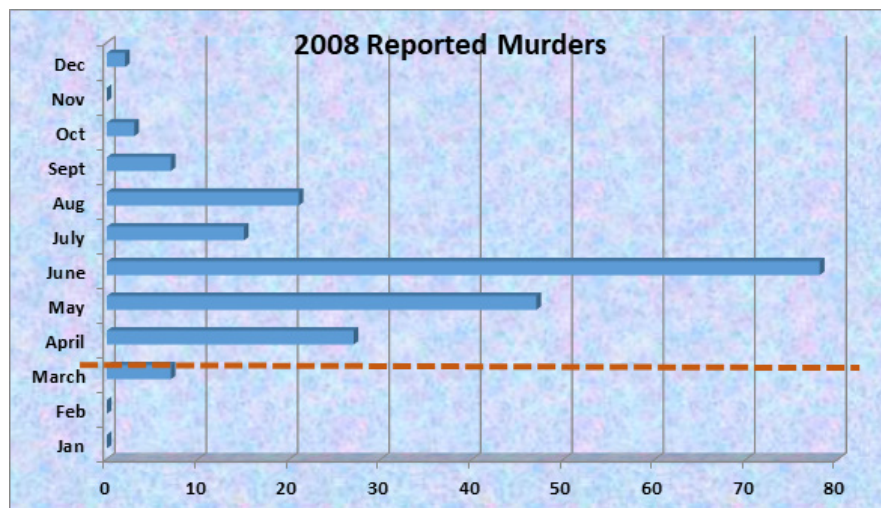


Source: Zimbabwe Peace Project



Source: Zimbabwe Peace Project

Annexure 2 : 2008 Violations and Violence

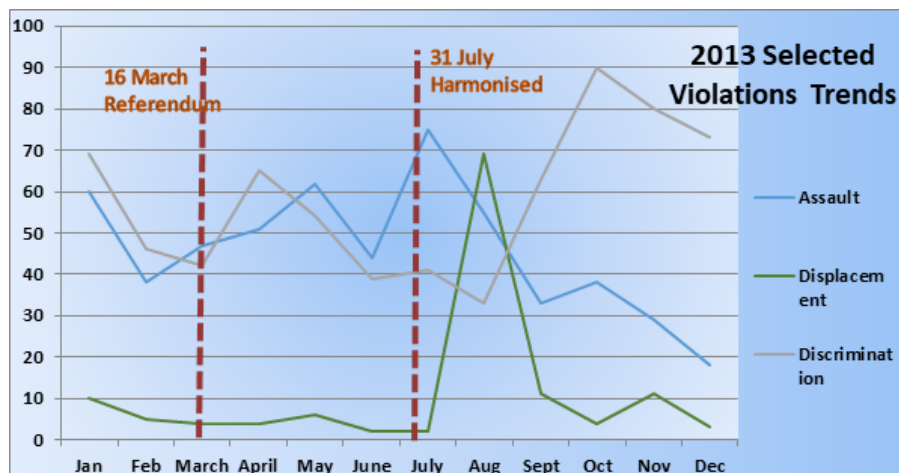


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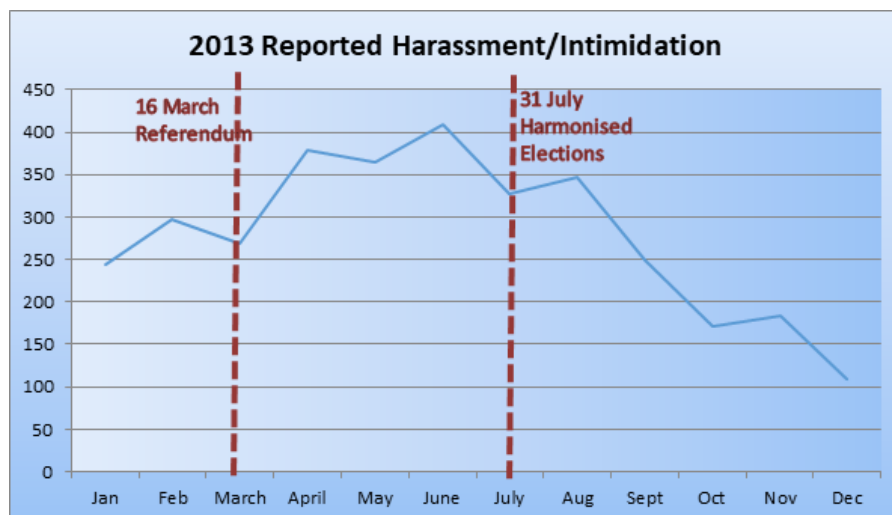
Annexure 3: 2013 Violations and Violence



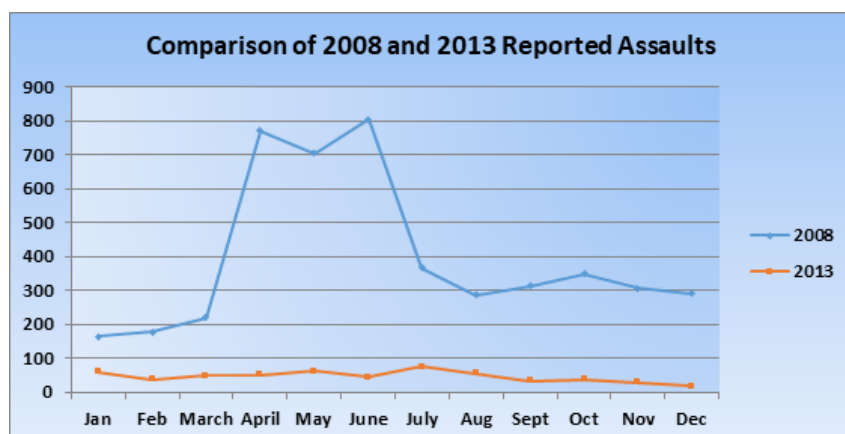
Source: Zimbabwe Peace Project



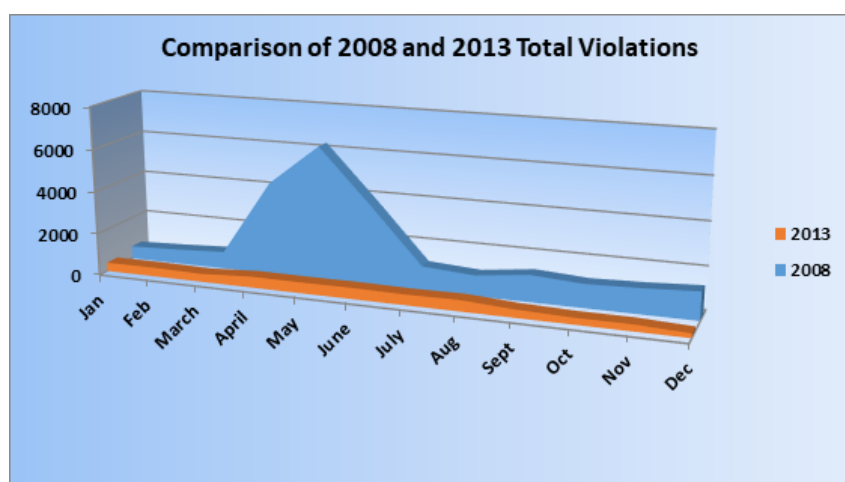
Source: Zimbabwe Peace Project



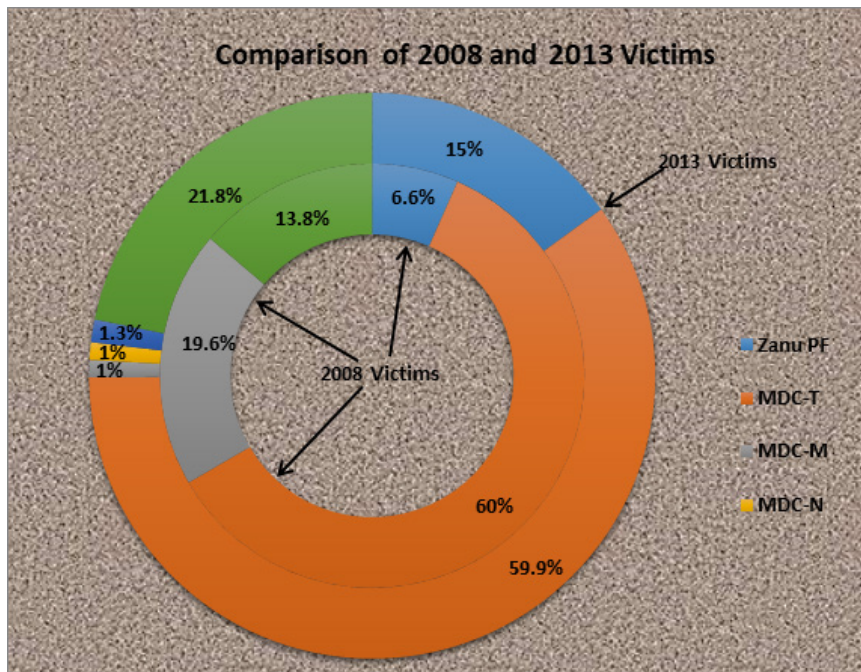
Source: Zimbabwe Peace Project

Annexure 4 : Comparison 2008-2013

Source: Zimbabwe Peace Project



Source: Zimbabwe Peace Project



Source: Zimbabwe Peace Project

CHAPTER III

CONCLUSIONS & RECOMMENDATIONS

Key findings for the region

Several key findings were drawn from the national chapters on the fourteen SADC countries and the subchapter on the SADC region. From these findings, it is possible to identify shared regional dynamics and conclusions that can be drawn from several national cases. Based on the readings and further research on democracy and socio-economic classes, violence and perception of violence, trust and culture of transfer of power, three blocks of regional dynamic findings were identified, namely: (I) Shared regional issues from national cases; (II) Regional issues; and (III) Unique national issues with a potential for regional focus.

Shared regional issues from national cases

From the national cases, several issues appear to be common in two or more SADC countries despite socio-political differences. Issues around the electoral process might be considered to be unique to each national context. However, imagine using a satellite picture zooming in on a country and you may find several features that are seemingly unique. Although, zooming out, one realises that this feature is common to at least another country that may even have a different electoral system. These issues are therefore more likely to be part of a country's root causes of conflict and violence and considered as "shared regional issues from national cases".

Common drivers of electoral violence from different national cases

Recurring issues emerged from different national situations about unfair access to the electoral process not only during the electoral period but throughout the electoral cycle¹. They appeared separately in each national context, but 'zooming out' shows that they are common to different countries in the sub-region. These issues can legitimately create an impression that the electoral process is flawed. In other cases, they can contribute to promoting the "sore loser" behaviour, as those issues can provide apparent 'proof' to the electoral losers that the game is unfair. Among those issues, one can find the access to media, public funding of political parties and use of state resources during the political campaign (e.g. Lesotho, Mozambique). The state resources can be used as socio-economic drivers of conflict. In that case, they are used to reward political supporters and sometimes to pay them for using violence against opponents (e.g. Zambia). The patron-client relationship is also a common issue found in several national contexts. It is well described by several researchers in the national chapters as parts of the drivers of electoral violence.

The sore losers' behaviour can be defined as an attempt to refuse to admit the fairness of an electoral result considered to be in opposition to the losers' interest. Electoral violence can be one of the means to express this refusal to accept the results as stated in the Lesotho national chapter: *"the electoral violence has become a mean to express dissent, a mean to contest election results."*

The sore loser's behaviour can be mistaken for legitimate protests and contests of fundamentally flawed electoral processes. There are correlations found in the national case studies between electoral-related violence and fundamentally flawed electoral processes.

From the national chapters, the role of the media was pointed out as being extremely important. The

¹ The cycle consists in the following main steps: voting operations and election day; verification of results; post election; legal framework; planning and implementation; training and education; registration and nominations; electoral campaign.

restricted and unfair access to the media can be conducive to create flawed electoral processes. Media can also be used for manipulation of the masses.

In some papers (e.g. Zambia, Lesotho), politics is presented as a rare source of income that increases the potential level of tensions in societies where it is harder to earn a living in the private and the public sectors.

From the research undertaken in the national chapters, there is a common observation of increasing political contestations over power and resources. It seems also that the electoral competitiveness of many ruling parties across the region decreases and as a consequence creates stronger opposition parties. This can be captured by trends in electoral results. Many situations are described where the ruling party is benefitting financially or perceived as controlling wealth both in the private and public sectors and fights fiercely not to lose control of resources. Conflict and violence can be used as a tool to protect that monopolistic situation. Hence, understanding the electoral political economy of a country can also be an indicator of how and when electoral conflict and violence could be used as a strategy to protect resources.

The eroding electoral results for many ruling parties in the SADC region could contribute to creating fragile situations for internal leadership and be conducive to intra-party violence. It was observed from the Malawi and South Africa chapters, that there is a trend demonstrating a changing field in terms of electoral party violence. In fact, there is a decrease in inter-party violence while intra-party violence increases. It seems to match some trends in other SADC countries, notably Botswana, Mozambique and Zimbabwe.

Another national issue that has been observed in many different countries is the splitting of political parties from both ruling and opposition movements. The Botswana Movement for Democracy (BMD) from ruling BDP in 2010 in Botswana. Congress of the People (COPE) in 2008 and Economic Freedom Fighter (EFF) in 2013 from the ruling ANC in South Africa. The Movimento Democrático de Moçambique (Democratic Movement of Mozambique – MDM) from the opposition party Resistência Nacional Moçambicana (Mozambican National Resistance – RENAMO) in 2009 in Mozambique, etc. These splits, inherent to any multiparty democracy, complete the picture of an increasingly competitive electoral landscape in SADC region. They are even inherent to any political regime as even “illegal” movements split and merge, as happened between ZAPU and ZANU in 1963 in Zimbabwe. The current trend of splits can also be signs of a broader atomisation movement of social groups within Southern African societies.

The marginalisation of specific social groups from the political and the public spaces was identified in many national chapters as a driver of violence. Three groups were particularly identified: youth, the poor and women. Among these groups, the marginalisation of women was more often mentioned and covered. There is currently no woman in charge of any government or state in any of the SADC countries.

Strongman politics was also mentioned in some countries (e.g. Zimbabwe, Lesotho, Swaziland) as contributing to driving electoral violence. The criteria which characterise the strongman politics include a trend to use authoritarianism and cult of personality as means of exercising power. This finding can be added to the negative role of security actors documented in the research of the national chapters of some SADC countries (e.g. Zimbabwe, Lesotho, Mozambique). These issues can be linked to common aspects in many countries where ex-civil war movements have become the challengers to main political parties. A culture of confrontational relations and distrust is present in some places and contributes to electoral violence. Political violence is deeply rooted in the competition to access to power as observed in Mozambique.

Mozambique and Angola share the year of independence from Portuguese colonial rule, having been subjected to Portuguese rule for almost the same number of years (Mozambique: 1964-1974; Angola: 1961-1974). Moreover, both countries were parred by lengthy civil wars that erupted around the same years (Mozambique: 1977-1992; Angola: 1975-2002). Since the return of violent tensions in 2013 between RENAMO and FRELIMO, some observers argue that there is a new civil war in Mozambique².

Among other drivers of violence, the persistence of large-scale of poverty, high levels of inequality, high crime rates, and a dualistic economic and social structure were identified as common trends by the country-specific research. Weak or declining government and/or bureaucratic efficiency, growing societal tension over resources, inadequate social service systems, and the reliability and integrity of the government system and socio-economic infrastructure were also noted.

Common tools to mitigate, handle and/or prevent electoral violence from different national cases

From the national chapters, the positive role of civil society organisations was highlighted as helping to prevent and resolve electoral-related violence. In Lesotho and Madagascar, CSOs played an active role to mediate among political actors in times of crisis. The positive role of some faith-based organisations was particularly underlined, especially in these two countries.

Trade Unions were identified in the national chapters as key players in the electoral field, especially in Swaziland. It is part of SADC history. In the SADC region, trade unions have played a particular role, substituting themselves to political parties where they were banned or extremely controlled: e.g. the one-party state in Zambia 1972-1990, Malawi 1964-1992, colonial-ruled or white-minority-ruled countries, or in Swaziland presently. Regarding Swaziland, a special link exists between its Trade Union and South Africa, especially through the Congress of South African Trade Unions (COSATU)³.

The South African Parliament has become a centre of political tensions. Since 2015, parliamentary tensions⁴ erupted at every State of the Nation Address (SONA⁵). Those tensions should be understood and analysed using a more holistic approach as they could be attributed to the previously highly conflictual political culture. Parliamentary violence has erupted all across the world, not least in Europe and proved that verbal attacks and hate speech in Parliaments involve actors who also run and win elections. In Botswana, in July 2015 similar scenes⁶ of tensions that seemed unusual to many observers took place at the Parliament. Further research about these tensions should be conducted to explore how Parliamentary tensions correlate with electoral violence.

2 Business Day, December 29, 2016, "Fears of a New Civil War in Mozambique as Thousands Flee Mounting Hostilities", <https://www.businesslive.co.za/bd/world/africa/2016-12-29-fears-of-a-new-civil-war-in-mozambique-as-thousands-flee-mounting-hostilities/>

3 COSATU, March 2015, "Defend Swaziland Unions; free Mario Masukul!", <http://www.cosatu.org.za/show.php?ID=10158#sthash.nH1DR9Hp.dpuf>, Press Statement

4 Examples of 2015, 2016 and 2017. ENCA, February 12, 2015, "EFF disrupts SONA, Frog Marched from Parliament", <https://www.enca.com/south-africa/eff-disrupts-sona-ordered-leave-parliament>

Mail & Guardian, February 11, 2016, Sona: Chaotic Scenes as EFF Thrown out of Parliament, <https://mg.co.za/article/2016-02-11-eff-chants-zupta-must-fall-as-they-exit-sona>

The Citizen, February 9, 2017, Blow by Blow: Zuma Wraps Up Sona After Night of Violent Chaos and Obscenities, <http://citizen.co.za/news/news-national/1423054/live-report-2017-state-nation-address/>

5 The moment where the President presents the priorities of his government to the member of parliament

6 Views from the state-owned newspaper [DailyNews](#), July 2015, "Urgent Motion on Water", and from a privately-owned newspaper [Mmegi](#), July 7, 2015, "Brutality in Parliament"

From the case studies in Malawi and South Africa, it is understood that a good electoral system is not a sufficient condition for preventing electoral violence. A peaceful electoral process also requires a culture and a will to make the right use of these systems.

Regional issues

From the national cases and the sub-chapter about the regional dynamics, several issues are truly pan-regional. They are regional interventions, norms, tools and mechanisms identified from the papers.

From the case studies, there was no specific driver of electoral violence identified from regional intervention. The role played by SADC's democratic norms and mediation is mostly covered in the Madagascar, Lesotho, DRC and Zimbabwe national chapters and the sub-regional chapter. The national chapters illustrate that SADC offers a framework of intervention in countries where instability is on the rise. SADC countries can come together through regional mechanisms to prevent electoral and political crises from worsening and to facilitate dialogue among key political opponents. Elections have been used as the final exit strategy of national crises. The question remains to what extent elections provide solutions to the actual root causes of the crises. Some questions are pending from the national chapters about the role of SADC once the regional body has intervened in countries' crises in the run up to new elections. It is well captured in the Lesotho and Madagascar national chapters and the 2013 Malagasy presidential elections that aimed at closing a transitional period that started after a *Coup d'Etat* in March 2009: *"how did SADC-led mediation - which favoured the exclusion of both candidates⁷ - affect the prospects for Madagascar's future national reconciliation after the election?"*.

Unique national issues with a potential for regional focus

Reviewing the national chapters, unique and specific issues of electoral-related violence with a potential for a regional scope were identified. Some cases, were only identifiable in one country, for example the absence of political parties in Swaziland. This situation does not exist in any other SADC country. However, that issue could be a matter for a regional focus as political parties are commonly accepted in the SADC region.

In various chapters, the question of whether or not the First-Past-the-Post (FPTP)⁸ electoral system fuels electoral tensions is raised. This system was inherited by most SADC countries from the British system. It enables an electoral candidate to be a victor even with a low percentage of votes. One of the criticisms of this system is that the victor does not necessarily have a strong legitimacy to impose his decisions over the other political groups, thus fuelling tensions and eventually violence. In this context, governments of national unity or power-sharing have been attempted but proved to be unable to survive several electoral cycles (Zimbabwe, Tanzania - Zanzibar).

However, in the Botswana chapter, the FPTP system is not presented as a source of tension unlike in other countries. The author explains that this could be due to the ruling party dominance, in power since independence. The FPTP is also presented as a potential factor contributing to the low level of

7 Andry Rajoelina and Marc Ravalomanana

8 ACE The Electoral Knowledge Network, "First-Past-The-Post", <http://aceproject.org/ace-en/topics/es/esd/esd01/esd01a/default>, and "Advantages and disadvantages of FPTP System", <http://aceproject.org/ace-en/topics/es/esd/esd01/esd01a/esd01a01>

female representation in Botswana⁹ in a context of “persistence of patriarchal structures.” In fact, it is internationally recognised as an exclusion mechanism by the ACE Electoral Knowledge Network: “*It (the FPTP) excludes women from the legislature*”¹⁰.

Botswana remains probably the only country in SADC that openly criticizes undemocratic practices by its peers and has even questioned the validity of SEOMs assessment of elections in the past. It is unclear whether this position contributed to alleviating electoral tensions and violence or the opposite. However, this distinguishes Botswana from its peers, given the specific role and responsibility of Botswana in the SADC peer-to-peer structure, as the prevalent culture of regional governments consists of keeping criticisms behind closed doors. It also creates an environment where Botswana must ensure that it is performing better than those it criticized. This may be a challenge in terms of the wider democratic framework and also in terms of gender equality. Absence from violence does not necessarily equal peace, particularly in electoral contexts.

The situation of the DRC - along with its “*violent peace*” as Kris Berwouts puts it¹¹ - appeared as unique in its experience of post-civil war electoral cycles, with the level of violence in the recent period, several deaths during riots in September and December 2016 and marches against President Kabila staying in power after his second term (2006-2011 and 2011-2016). SADC remains involved in monitoring the situation in the DRC and the unique case for the DRC creates a need for a regional focus. The term “*glissement*” was coined to describe the delay in holding elections in the DRC, the most operationally and economically challenging of all SADC countries due to its size, resulting in many logistical hurdles to transport election material.

From the set of recommendations of the Lesotho national chapter, the South African Early Warning Mechanism is described as a model to follow, especially as regards the “multiparty liaison committees (MPLCs) and conflict management panels (CMPs)”. These models are key in terms of promoting peer-exchange. There is expertise within SADC region on tools to help prevent, mitigate and handle electoral violence.

In the Mauritius chapter, the concept of consociational democracy is described and analysed as concerning its impact on electoral tension and violence. This concept seems unique in the SADC region and it should be applied in the rest of the region to understand what the Mauritian consociational system is and how political violence is dysfunctional to an electoral democratic system based on ethnic power sharing.

Incomplete decentralization or devolution is presented in the national chapter on Mozambique as a driver of electoral violence and by default as a potential tool against it. It seems to have largely contributed to the revival of the tensions in the 2010s. The case is only presented in relation to Mozambique, but it could contribute to fuelling a cycle of tensions elsewhere too. Few SADC countries have completed devolution processes. It creates a situation where power is rarely shared between national and local levels. Moreover, power is rarely shared on time at the national level.

9 Inter-Parliamentary Union (IPU), Proportion of seats held by women in national parliaments (%), <http://data.worldbank.org/indicator/SG.GEN.PARL.ZS?locations=BW&page=5>

10 ACE The Electoral Knowledge Network, “First-Past-The-Post”, <http://aceproject.org/ace-en/topics/es/esd/esd01/esd01a/default>, and “Advantages and disadvantages of FPTP System”, <http://aceproject.org/ace-en/topics/es/esd/esd01/esd01a/esd01a01>

11 Berwouts, Kris, 2017, “Congo’s Violent Peace, Conflict and Struggle since the Great African War”

There is another specificity about Mozambique, namely the conditions to access weapons and the existence of organised militias within the opposition party RENAMO. The periodical violent tensions led regional and international actors to assist in talks and monitor the situation on the ground¹². This unique situation in the SADC region – with the exception of the DRC, which has, on the other hand been constantly considered as bogged down in violent peace - has created an environment that warrants regional focus.

A very peculiar and unique case is presented is the Swaziland case study and the *Tinkhundla* system. Political parties are not authorized in the Kingdom, and campaigning rights are extremely restricted. Instead, the country is ruled as an absolute monarchy. This context raises a question about the 2015 SADC Principles and Guidelines Governing Democratic Elections: Can a SADC country organize “democratic elections” without political parties?

In the SADC document, under the sub-section 13.2.6 from the 13.2 PRE-ELECTION PERIOD section, it is stated that the SADC EOM shall ensure:

“That the registration of political parties, qualification and disqualification of political candidates are explicitly provided for in national laws. There should be no stringent exclusionary elements in the regulatory framework of political party and candidate registration”.

The regional focus for that peculiar and unique case will be tested under the new SADC Principles and Guidelines¹³ for the first time in September 2018 in occasion of the next parliamentary elections of Swaziland¹⁴. In the national chapter on Swaziland, the Tinkhundla system is presented as an attempt by the authorities in the Kingdom as a way for the country to rid itself of colonial heritage by embracing an African path. Swaziland is also a unique case in a region where the anti-colonial rule remains extremely powerful.

Finally, the Zimbabwean chapter illustrates quite a specific form of election related conflict and violence worth exploring from a regional point of view, namely the systemic use of psychological violence. Again, previous Zimbabwean electoral processes led to a regional intervention where elections came as an exit for the SADC facilitation in 2013. From the national chapter of this handbook, it is understood that there is still a role for regional actors to play in Zimbabwe in the context of this specific subtype of political and electoral violence.

Conclusions

There are strong indications that the SADC region is going through multiple challenges that stem from a political economy that for long protected clientelism and patronage systems. This has held back peaceful transitions of power. Regional observers have questioned whether elections are part of the problem or part of the solution. However, when conflict or violence occurs, it is the result of a temporary, or permanent, breakdown of the entire process and not of a single element isolated from the process itself.

12 South African News Government Agency, September 17, 2014 International observers arrive in Mozambique, <http://www.sanews.gov.za/south-africa/international-observers-arrive-mozambique>

13 SADC Principles and Guidelines Governing Democratic Elections, 2015, <https://eisa.org.za/pdf/sadc2015principles.pdf>

14 EISA, “2018 African Election Calendar”, <https://www.eisa.org.za/index.php/2018-african-election-calendar/>

Election related conflict and violence is multi-faceted. It is used within SADC, among other regions, as ways to express legitimate or illegitimate disagreements with official results, to influence voters to vote for or abstain from voting for a particular candidate/party, to marginalise certain groups etc.

Despite some democratic setbacks in key SADC countries during the last electoral cycle, there are numerous documented cases of effective individual and collective actions in the SADC region in favour of peaceful democratic systems (SADC and national official institutions, civil society organisations and electoral management bodies) as well as an increase in electoral competition across the region. A comprehensive approach and early warning mechanisms have proven to be efficient in preventing and coping with ERV. There is a strong expertise on ERV and efficient mitigating tools exist within the region, which can be strengthened through regional and international support.

The lessons learned from the PEV SADC project about election related conflict and potential violence in the SADC are in line with the EU approach¹⁵ of *“coordinated and shared analysis of each country and/or regional specific context, the conflict dynamics and the root causes of a crisis situation”*. It also matches the statements from the European External Action Service (EEAS) about mediation and ERV, supporting the idea that the EU can assist in the setting-up *“of local electoral mediation panels as part of local infrastructures for peace, consisting of trained individuals that reach out through dialogue, work towards a friendly electoral atmosphere, resolve conflicts through mediation and can act as providers of early warning signs”*¹⁶. This is much in line with the South African model, which is explored further in this handbook.

The PEV SADC handbook seminar held in Brussels 12th and 13th July 2017, out of which the last day was held in the European parliament, brought some valuable conclusions about the current efforts at the European and SADC level to prevent election related conflict worth mentioning in this concluding chapter. Having acquired solid and self-lived knowledge on electoral assistance, throughout their past experiences as Chief Observers, the two co-chairs of the seminar, namely MEPs Ms Sargentini and Mr Peterle mentioned the work carried out by ECES in contributing to the development of new approaches and methods in order to prevent electoral related violence more effectively and continue to develop innovative tools in the field. They stressed that this handbook constitutes a unique contribution in its kind in the way that the handbook collects narratives over the roots causes and dynamics around electoral conflicts in SADC. As such, the handbook is a strategic tool in itself that can feed into a vast array of electoral assistance activities in the form of providing case studies to workshop curriculums, enhance voter education material and provide baseline for election situation rooms and naturally, incite further research. Enhancing these topics and engage young generations must remain a top priority in the European capacity building activities, according to the panellists.

The importance of election conflict prevention during voter registration processes was lifted as key, whereby EU EOMs have witnessed uncontrolled violence during the pre-electoral phase in Nigeria and Kenya. During the 2016 elections in Kenya, EUs Chief Observer, Mr Peterle witnessed electoral tensions and he recalled past electoral conflicts. In light of the latter, it was mentioned that the handbook produces stimulating elements and offers possible solutions that can help find an avenue for peace and democracy in the SADC region and beyond. In conclusion, Mr Peterle called for more intra-parliamentary dialogue in order to increase contributions to democracy specifically the conduct of peaceful elections by supporting electoral processes at large.

15 EU Council, Foreign Affairs. Brussels, 12 May 2014, [Council conclusions on the EU's comprehensive approach](#)

16 EEAS Mediation Factsheet 2013 , Support Project – [Knowledge Product Mediation and Dialogue in Electoral Processes to Prevent and Mitigate Electoral Related Violence](#)

EEAS recalled the necessity to develop a more comprehensive Early Warning System (EWS) within EU Electoral Assistance. Currently EEAS is indeed working on ERV risks within the framework of EUEOMS to find patterns on how to improve it based on previous missions.

EEAS mediation support division noted that a strategic momentum to implement long-term mediation strategies lies in the pre-electoral window. When spontaneous and premeditated violence occur it makes a more challenging pretext for mediation. Systematic sharing of resources and lessons learnt among all development partners and electoral stakeholders was emphasized as one of the fundamental pillars of how to conduct robust electoral conflict analysis and certainly the handbook feeds into this framework.

ECES panel in the Parliament stressed the importance of building strong bridges between EUEOM recommendations and the formulation and implementation of electoral assistance activities contributing to conflict prevention. It was mentioned that ECES activities in fact can in one way or the other be considered as having a conflict prevention-angle, since all actions to improve the electoral process enhances its credibility that in turn makes it less likely that conflict and violence would erupt.

Another lesson that is straight forward but not always simple to achieve is to employ a multi stakeholder approach, taking into account both formal and informal players in the electoral sphere in order to avoid ERV. ECES have devised the Leadership and Conflict Management Training for Electoral Stakeholder, trademarked "LEAD". The LEAD curriculum has a built-in objective of building bridges between electoral stakeholders by bringing in players from all groups in a safe forum for exchange. This in itself have proven to be an effective starting point for dialogue. In some instances, LEAD participants have exported the platform beyond the training room and for example used the same composition in political party liaison committees. The LEAD methodology, besides being rich in content, has a proven track record of preventing electoral violence by engaging electoral stakeholders in a forum where no stakeholder should be more exposed or accused of instigating conflict than the other. Role plays and real case studies sheds light on the role and responsibility of all electoral stakeholders and the detrimental consequences of when dialogue and exchange fails.

Throughout the PEV SADC project, ECES worked closely with electoral management bodies and regional networks such as the network of EMBs, which proved to be the right path to create a multiplier effect for greater achievements beyond the programme itself. Numerous members from EMBs, civil society, media, judiciary, security sector, political parties and other interest groups have been trained in the LEAD curriculum and as such, they are able to replicate the LEAD training.

Some of the concluding remarks of the seminar revolved around the fact that the SADC region is currently entering into a "post-Mandela era", where a new model of intra party dialogue must be established in order to avoid internal struggle for candidate nomination. Populism is gradually emerging also in the African political context as slogan such "*we fought for freedom and all we got was democracy*" are gradually become more popular as democracy is seen to fail to deliver. Mediation remains the "cure" to support democratic forces in this fight.

With the above seminar conclusions in mind coupled with the contents of the PEV SADC handbook, a number of recommendations can be made.

In more overarching terms, there is a need within the SADC region to strengthen a culture of power sharing and diffuse unnecessary political confrontations within the region itself. All SADC countries

are impacted to a certain extent by electoral-related conflict and violence, since events in one country can, in principle, put regional stability at risk. **All SADC countries have mechanisms in place to cope with violence but they all need strengthening to improve their efficiency and employ tools in the pre-electoral phase. The “European experience”, referring to the post-world war era of building both national and regional institutions to achieve stability rather than relying on legal instruments, conflict management or good will of leaders could continue to inspire other regions as a successful case of a complex mission to weld together divided societies.** In order for electoral conflict to be mitigated, since an outright elimination seems close to impossible, mechanisms need to be coordinated, supported and revived not only close to election day, but throughout the various stages of the electoral process. Election related conflict prevention is not an effort that should have an on or off-button, it should be embedded in wider democracy and electoral support programmes regardless of the main objective of such programme. The election conflict prevention toolbox is ample, comprising dialogue, leadership skills, mediation, capacitation in operational and technical aspects of running elections. The key to a holistic approach is on the one hand to involve electoral stakeholders in the same forum and facilitate inter- and intra-institutional relationships but on the other to *mainstream* election conflict prevention.

With the involvement and participation of a wide spectrum of electoral stakeholders, it is possible to establish mechanisms that can prevent electoral conflict, and assist in diffusing conflict before it spreads. Early warning mechanisms, if properly established, can raise red flags so that electoral stakeholders can take complementary measures to deal with violence in the process, saving lives and property.

The SADC region has proven its capacity to grow its own expertise to adapt, to prevent and to mitigate electoral violence. The national chapters show that mechanisms and tools to cope with electoral violence would benefit from being further developed or strengthened. One can understand from the massive amount of findings put forward in the national chapters that efficiency is found at local level, but that regional work among CSOs and SADC Member States is necessary to maintain an effective and coherent framework.

The national chapters further demonstrate the difficulty in capturing electoral conflict and violence within SADC region and the need for independent bodies at national and regional levels to monitor and investigate electoral violence. There is also a need for an independent regional network providing expertise to electoral officials and non-state actors involved in the fields of elections for improving knowledge and information and reinforcing capacities for efficient action.

Based on the conclusions of the national chapters, in order to improve efficiency in dealing with election related conflict and violence, recommendations should aim at:

- i) Improving knowledge and information-gathering about drivers of electoral violence and occurrences;
- ii) Improving the exchange of knowledge and information to raise awareness among all electoral stakeholders; electoral professionals and citizens alike;
- iii) Improving the capacity of institutions dealing with electoral violence by supporting the creation or the strengthening of Early Warning Mechanisms at various levels;
- iv) Strengthening the learning conditions by developing and strengthening training curriculums on prevention of electoral violence for EMBs, political parties and state officials and CSOs.

These efforts should be undertaken in accordance with a spirit of regional support and exchange, respect of national specificities and through an inclusive and transparent approach involving as many actors as possible.

The Regional Observatory launched by the PEV SADC project could have a continued role to play in the SADC region. The model, in turn, could be replicated in other regions, notably West (Sahel), East Africa and the Great Lakes region.

Main Recommendations

To International Development Partners:

- To support the development and strengthening of anti-ERV mechanisms and tools involving CSOs, EMBs and other electoral stakeholders in a coordinated and safe forum for exchange, especially supporting ERV Regional Observatories made up of national experts;
- To depart from local expertise and favour peer-learning approaches but to propose support in coordination and content;
- To support increased synergies between electoral assistance and election observations, exploring the potential of electoral assistance projects to support the implementation of EU Election Observation Mission (EUEOM) Recommendations;
- To support the implementation of a regional framework respecting subsidiarity and national specificities;
- To support the continuity of regional established Observatories for the prevention, mitigation and management of election related violence and;
- To support the establishment of a regional mediation body that coordinates national initiatives targeting track II and III mediation at the regional and national level.

To SADC Member States and EMBs:

- To keep on improving the regional standards and tools to deal with election related conflict and violence and offer more space for collaboration with civil society actors and other electoral stakeholders;
- To adopt a comprehensive and full electoral cycle process approach, officialising electoral calendars in a timely manner and investing in institutional communication;
- To collaborate with the Regional Observatory in ways that are meaningful for the region;
- To generalise the concept of consultative panels involving EMBs, political parties, CSOs and independent citizens (similar to political party liaison committees);
- To benchmark and adopt best practices from within the region, and adopt and contribute to international standards; and, to institute risk-management frameworks, used to identify, analyse and monitor risks relating to ERV.

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ACKNOWLEDGEMENTS

This handbook was coordinated and conceptualised by ECES together with the Election Support Network of Southern Africa and supported by many of its 16 members in the 14 countries comprised by the PEV SADC project. The handbook was edited by its Executive Director, Fabio Bargiacchi and Election Conflict Management Advisor, Victoria Florinder who has been the lead team member to implement the research and capacity building component of the PEV SADC project since its inception 2013. The handbook was co-edited by Dr Kondwani Chirambo and Thibaud Kurtz. Dr Chirambo supported the peer reviewing tremendously during the first phase of developing the country case studies. He provided continuous summaries on the research progress, kept the various editions of the case studies coming in on time and provided guidance and technical inputs to support the authors in their work. The final stage of the handbook was supported by Thibaud Kurz, who brought his regional experience to fine-tune the case studies and tied them together to make visible regional similarities and differences.

Eva Palmans, ECES Head of Programmes have supported the implementation of the PEV SADC project greatly from the ECES regional headquarters in Madagascar, from where the project was financially and administratively managed for the most part. Other ECES colleagues that supported the PEV SADC project in general and the research component in particular with technical inputs were Project Officer, Tatiana Edgard, Programmes Advisor, Martina Garbuglia, Programmes Coordinator, Camille Rouaud and Senior Electoral Advisor Vera Lourenco. ECES Project Officers Omar Alam and Sebastiano Mori supported the final proof reading and perfected the handbook in terms of language and style. Mr Manji Suhunshak Wilson made sure that footnotes and references were all in order.

The main contributors of this handbook, namely the authors of the case studies, allowed this handbook to demonstrate the wealth of experience and academic excellence that the SADC region harbour. The handbook would not have been possible without the empirical material presented through the case studies, crafted by the PEV SADC researchers that at the same time constitute the core of the Regional Conflict Prevention Observatory. The authors, listed in no particular order, are Lee Habasonda, Jestina Mukoko, Max Weiland, Victor Shale, Johanna Nilsson, Kondwani Chirambo, Robert Gerenge, Alexander Makulilo, Henry Chingapie, Dimpho Motsamai, Juvence Ramasy, Andrew Mushi, Celestino Sectucula, Lungile Mnisi and Catherine Boudet.

A special thanks needs also to be directed to our long-standing partner ESN-SA and its Secretariat Chaired by Steve Duwa and Host Director Rindai Chipfunde Vava. Ms Vava has delivered the majority of the workshops delivered within the framework of the PEV SADC project alongside ECES colleagues. Without their partnership and coordination at the regional level, the project could never have unfolded in such a coherent and coordinated way. The ESN-SA members from the 14 countries has played a key role as main beneficiaries and partners. These are in Botswana, Emang Basadi, in Democratic Republic of Congo, RENOSSEC, in Lesotho, the Lesotho Congress of NGOs, in Madagascar, KMF/CNOE, in Malawi, the Malawi Electoral Support Network, in Mauritius, the Mauritius Association of Social Services, in Mozambique, the Mozambique Electoral Observatory, in Namibia, NANGOF TRUST, in South Africa, the South African Catholic Bishops Conference, in Swaziland, CANGO, in Tanzania, the Ecumenical Dialogue Group, in Zambia, the Foundation for Democratic Process and the Zambia National Women's Lobby, and in Zimbabwe, the Zimbabwe Election Support Network.

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In addition to the above, it is important to remember all of the electoral commissions that has been either part of the PEV SADC projects capacity building scheme both as participants and facilitators, and

those who have actively contributed as a sounding board to the development of this handbook. It is worth mentioning the Independent Electoral Commissions of South Africa, Lesotho, Zambia, and the CENI of Democratic Republic of Congo and Madagascar and last but not least the STAE and Electoral Commission of Mozambique. The regional counterpart to the ESN-SA for electoral commissions, namely Electoral Commissions Forum of SADC and its Secretariat has been a solid partner along the way. The PEV SADC project has interacted with the ECF-SADC on several occasions and always benefitted from the fruitful exchange. The same can be said for the SADC Electoral Advisory Council (SEAC), the African Union and Commonwealth. Since the PEV SADC project covered near-all countries of the SADC, excluding only Seychelles, the project has overlapped with various regional election observation missions. On those occasions, a cordial and professional relationship has been established without compromising the different roles that electoral assistance and election observation plays.

Last but certainly not least, the PEV SADC project and hence this handbook has benefitted from 75% of financial support from the European Commission. The Project has been managed from Brussels by the Directorate General for Development and Cooperation (DEVCO) and in particular the unit for Civil Society and local authorities, B2. The EU Delegations in the SADC countries have followed the Project closely and this two-tiered interaction with the European services, Brussels on the one hand and the Delegations on the other, has allowed the project implementation to be tailored to the political priorities during the 4 years of implementation.

We are grateful to all those mentioned above as well as all other individuals, institutions and organisations that have all contributed to the successful implementation of the PEV SADC project and the development of this handbook.

AGENDA OF THE SEMINAR

“Preventing election related violence: what role for political mediation and dialogue?”

Discussion on ECES Election Conflict Prevention Handbook”

12 July 2017 Hotel Renaissance

13 July 2017 European Parliament

Brussels, Belgium

12 July Wednesday

Day 1. Seminar: “Preventing election related violence: what role for political mediation and dialogue?”

Discussion on ECES Southern Africa-Handbook”

Venue: Hotel Renaissance, room Brussels Ballroom

09:00 – 09.45 Registration and coffee

9.45 – 10.15 Official Opening with keynote speakers

Welcome Remarks

- Fabio Bargiacchi ECES Executive Director: European Cooperation know-how about preventing and managing election related conflict and potential violence.
- Rindai Chipfunde Vava, ESN-SA Host Director: The strategic role of the SADC region within the framework of EU-Africa relations and the importance of capacity building initiatives.

Moderator: Victoria Florinder

10:15 – 10:45 Overview of the PEV SADC project and exploring the way forward

- Victoria Florinder, ECES Election Conflict Management Advisor: An introduction to the PEV SADC project four years down the line.
- Eva Palmans, ECES Head of Programmes: The utility of the Conflict Prevention Handbook moving forward.
- Rindai Chipfunde Vava, Zimbabwe Election Support Network: From Preventing to Managing? Regional response mechanisms.

Moderator: Vera Lourenco

10:45 - 11:00 Diversity, participation and tolerance in the Arab World

- Julia Teixeira, Programme Manager, Westminster Foundation for Democracy

Moderator: Vera Lourenco

11.00 – 13.05 Presentation and discussion on case studies (15 min presentation: problem statement, key findings and main recommendations + 10 min Q&A)

11.00 – 11.25 Malawi

- Author: Henry Chingaipe
- Panel 1.
- Moderator 1. Eva Palmans

11.25 – 11.50 Lesotho

- Author: Victor Shale
- Panel 2.
- Moderator 2. Victoria Florinder

11.50 – 12.15 Madagascar

- Author: Juvence Ramasy
- Panel 3.
- Moderator 3. Vera Lourenco

12.15 – 12.40 Mozambique

- Author: Johanna Nilsson
- Panel 1.
- Moderator 1. Eva Palmans

12.40 – 13.05 Namibia

- Author: Maximilian Weyland
- Panel 2.
- Moderator 2. Victoria Florinder

13.05 – 14.05 Lunch

14.05 – 16.50 Cont. Presentation and discussion on case studies (15 min presentation: problem statement, key findings and main recommendations + 10 min Q&A)

14.05 – 14.30 South Africa

- Presenter: Granville Abrahams
- Panel 3.
- Moderator 3. Vera Lourenco

14.30 – 14.55 Zimbabwe

- Author: Jestina Mukoko
- Panel 1.
- Moderator 1. Eva Palmans

14.55 – 15.20 Democratic Republic of Congo

- Author: Robert Gerenge
- Panel 2.
- Moderator 2. Victoria Florinder

15.20 – 15.35 Coffee break and Group photo

15.35 – 16.00 Mauritius

- Author: Catherine Boudet
- Panel 3.
- Moderator 3. Vera Lourenco

16.00 – 16.25 Tanzania and Zanzibar

- Author: Alexander Boniface Makulilo & Andrew Mushi
- Panel 1.
- Moderator 1. Eva Palmans

16.25 – 16.50 Swaziland

- Author: Lungile Nonhlanhla Mnisi
- Panel 2.
- Moderator 2. Victoria Florinder

16:50 – 17:15 Concluding remarks

- Panel members
- ECES/EPD members
- Moderator 1. Vera Lourenco

Panel 1. Malawi, Mozambique, Zimbabwe, Tanzania and Zanzibar

- Francis Oke, General Secretary ECONEC, Sierra Leone
- Dr Nyaphisi, Commissioner IEC, Lesotho
- Julia Texeira, Programme Manager, Westminster Foundation for Democracy, UK
- President Barthélemy Kérékou, former President of the CENI Burkina Faso

Moderator 1. Eva Palmans**Panel 2. Lesotho, Namibia, Democratic Republic of Congo, Swaziland**

- Jose Thompson, Executive Director, CAPEL, Costa Rica
- Hilda Modisane, Secretariat Electoral Commissions Forum SADC, Botswana
- Granville Abrahams, Senior Manager for Electoral Matters IEC, South Africa
- Gorka Camarra, ECES Project Director Comoros

Moderator 2. Victoria Florinder**Panel 3. Madagascar, South Africa, Mauritius**

- Felisberto Naife, Director STAE, Mozambique
- Rindai Chipfunde Vava, Director, Zimbabwe Election Support Network, Zimbabwe
- Dominique Weertz, ECES Project Director Guinea Conakry
- Steve Duwa, Chairperson, Election Support Network of Southern Africa, Malawi

Moderator 3. Vera Lourenco**Thursday, July 13, 2017****9:00-12:00****European Parliament, Paul-Henri Spaak P4B001****9:00 – 9:20**

Welcome by **Mr Alojz PETERLE**, MEP, former Chief Observer to the EU election observation mission in Kenya and **Ms Judith SARGENTINI** MEP, former Chief Observer to the EU election observation mission in Mozambique and Tanzania.

Opening remarks by **Ms Monica FRASSONI**, ECES President on the launch of the ECES Handbook

9:20 - 11:30

Co-Chairs: **Mr Alojz PETERLE**, MEP, former Chief Observer to the EU election observation mission in Kenya, and **Ms Judith SARGENTINI** MEP, former Chief Observer to the EU election observation mission in Mozambique and Tanzania. Developing an EP approach within overall EU efforts to prevent election related violence – cases of Kenya and Zanzibar, Tanzania.

- **Riccardo CHELLERI**, Policy officer for Democracy and Election Observation, European External Action Service and Canan GUNDUZ, Mediation Advisor, Conflict Prevention, Peacebuilding and Mediation Division, European External Action Service EU's approach to a more integrated/ coordinated approach to the election violence prevention
- **Fabio BARGIACCHI**, Executive Director, European Centre for Electoral Support (ECES) Converting EU EOM recommendations in electoral assistance projects to tackle ERV
- **Dan MALINOVICH**, Electoral Advisor EC-UNDP Task Force on Electoral Assistance, United Nations Development Programme Update on the UNDP's approach to preventing election related violence
- **Granville ABRAHAMS**, Senior Manager for Electoral Matters Independent Electoral

- Commission of South Africa (IEC) The South African model for Conflict Prevention
- **Gérard STAUDMANN**, Senior Diplomatic Advisor and Coordinator Preventive Diplomacy Group, European Institute of Peace
Preventive Diplomacy and elections
- **Sonya REINES-DJIVANIDES**, Executive Director, European Peacebuilding Liaison Office (EPLO)
Civil Society and elections

Discussion with experts

Possible topics:

- a) EU EOM Recommendations and Follow-up. How to improve compliance to recommendations and could/should recommendations be of a political nature?
- b) From early warning to preventive engagement
- c) The role of the European Parliament in Conflict prevention and political dialogue in order to prevent electoral conflict and violence
- d) Preventative diplomacy – exploring the role and mandates of EOEOMs, SADC-SEAC, regional EMBs
- e) Main lessons learned in the prevention of election-related violence in EU partner countries: what has been done?

11:30 - 12:00

Closing Remarks by the EP, EEAS and ECES.

12:00 - 13:10

Networking lunch: sandwich buffet and drinks served inside the venue.

13:10 - 14:30

Exhibition venue.

Gonzalo MABUNDA. Turning weapons into art: The victim-perpetrator nexus.

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ABOUT THE EDITORS & AUTHORS

Editors

Fabio Bargiacchi, Executive Director of ECES

Fabio Bargiacchi is a member of the Management Board of ECES serving as Executive Director and Co-founder of ECES Management Unit since August 2011. His tremendous contributions have brought ECES to be nowadays an important actor in the electoral support sector at European and Global level.

Fabio started working in the elections field from the early 90's. From 1997 onwards, he began work in the field of electoral support at international level. Between 1997 and 2004, he held several posts in the field of electoral assistance and observation with the EU, UN and OSCE. He has worked for long term assignments in several African countries such as Central African Republic, Zimbabwe, West Bank and Gaza, Zambia, Kenya, Nigeria, Haiti, Tanzania, Democratic Republic of Congo Suriname and Indonesia serving as Senior Election Operations Expert, Training/Reporting Advisor and Coordinator of EU Election Observers among the various senior positions he held.

Fabio also developed a deep knowledge in project cycle management, particularly in the Democratic Governance field as explicitly shown by his experience working for the European Commission at the level of the Delegation of the EU in Maputo (Mozambique) from 2001 to 2003 and at the EU Headquarters (European Commission, EuropeAid) in Brussels between 2004 and 2006 as Election Specialist.

From January 2007 to December 2010, Fabio served as Coordinator of the "Joint EC UNDP Task Force On Electoral Assistance" (JTF) and Senior Electoral Assistance Advisor at the UN/UNDP Brussels Office. During this period, he contributed to the establishment of the same Joint Task Force and oversaw its activities for the identification, formulation and support for the implementation of all the EC-UNDP electoral assistance projects. From October 2004 to December 2006, he worked as Election Specialist at the Directorate for Operations Quality Support of the EuropeAid and he was the coordinator and main author of the "EU Methodological Guide on Electoral Assistance". Bargiacchi was, thus, involved in more than 70 UNDP projects amounting up to a sum of more than 600 million EURO from October 2004 till December 2010. Bargiacchi was also at the forefront of the conception and delivery of all the Joint EC UNDP IDEA effective electoral assistance, face-to-face and distance e-learning training from September 2005 till February 2011.

From January 2011 to February 2012, he worked as Chief Technical Advisor for the EU funded "Project in Support of the Electoral cycles for the six Portuguese Speaking Countries in Africa (Angola, Cabo Verde, Guinea Bissau, Mozambique, Sao Tome and Principe) and Timor Leste", implemented by UNDP (www.propalop-tl.org). This was the first ever trans-national electoral assistance project that focused exclusively on capacity development.

Considering the experiences with OSCE, UN/UNDP, EU and ECES, Fabio has dealt with electoral and democratisation processes in over 50 different countries and worked on the identification, formulation, implementation or evaluation of more than 100 electoral assistance projects since 1997.

Fabio was recently in 2014 appointed in 2014 as Vice President of the European Partnership for Democracy (EPD) and coordinator for the implementation of a joint strategy devised with the partners of EPD called "A European Response to Electoral Cycles Support". EPD is one the most important network of European civil and political society organisations working on democracy assistance. In this context, the joint experiences of the relevant members of the EPD provide the needed knowledge and expertise

to implement a robust European response to electoral support activities mainly funded by the EU and its Member States.

Fabio is a BRIDGE ACCREDITING training-facilitator and he is one of the main creator of the training curriculum “Leadership and Conflict Management Skills for Electoral Stakeholders, LEAD” conceived by ECES together and the Centre for Creative Leadership. He is a graduate of Political Science following his studies at the University of Florence (Cesare Alfieri) and at the “Universite Libre de Bruxelles”. He holds a Master of Arts in Society, Science and Technology after studies at University of Roskilde (Denmark) and University of Oslo (Norway). In the last 12 years has authored, coordinated, co-authored and contributed to a series of election-related publications and papers:

- “The potential of EU Funded electoral assistance to support the prevention of election related conflict and violence: Lessons from the Southern African Region”
- EURECS - A European Response to Electoral Cycle Support (2016)
- Using International Standards. Council of Europe Handbook for Domestic Election Observers (2013)
- Essential Consideration of Electronic Voting published by International IDEA (2011)
- ISPI Working Paper on the Electoral Cycle Approach: Effectiveness and Sustainability of Electoral Assistance (2011)
- EU and Peace building, Policy and Legal Aspects: EU Electoral Support: (2010)
- EC-UNDP Operational Paper on Procurement Aspects of Introducing ICTs in Electoral Processes: the specific case of biometric voter registration (2010)
- EC-UNDP Operational Guidelines. Implementation of Electoral Assistance Programmes and Projects (2006 and 2008)
- ACE Focus on Effective Electoral Assistance (2007)
- UNDP Electoral Assistance Implementation Guide (2007)
- EC Methodological Guide on Electoral Assistance (2006)

Victoria Florinder, Election Conflict Management Advisor

Victoria Florinder possesses over 10 years of experience in the democracy sector. She joined ECES in November 2012 after several years of international work, based mostly in West Africa, Caribbean region and Stockholm Sweden. Victoria is part of ECES coordination cell that is charged with the overall supervision and coordination of all ECES projects and activities globally, managing linkages between field activities and ECES headquarters.

Victoria’s field of expertise is election related conflict and violence, civil society organizations and mediation support in electoral contexts. Victoria was the lead team member of ECES’ most geographically diverse project entitled “Preventing Electoral Violence in the SADC Region (PEV-SADC)”. Victoria developed and coordinated the research component of the PEV SADC project since its inception and delivered capacity enhancing activities to over 800 individuals.

Since 2014, Victoria held the position of Election Conflict Management Advisor. She spent close to 2 years based in the regional office in Antananarivo, Madagascar while delivering the PEV SADC project in near-all SADC countries. In 2015/16 Victoria was also the interim Project Director of the Project in Support of a Peaceful and Inclusive Electoral Process in Zanzibar – PROPEL that delivered mediation support and political dialogue during the 2015 elections. Victoria is based shuttling between Brussels and Africa, supporting the implementation of ECES activities in the region.

Since 2017, Victoria is ECES Senior Conflict Management Advisor and the dedicated Project Director of the project in support of the prevention, mitigation and management of election related conflict and potential violence in South Africa (PEV-RSA). The South Africa-project is implemented in close partnership with the Independent Electoral Commission and runs over 48 months.

Victoria is an accredited facilitator in the Building Resources in Democracy, Governance and Elections training programme (BRIDGE) and a certifying facilitator of the Leadership and Conflict Management for Electoral Stakeholder (LEAD) training methodology.

Victoria has an academic background in Development Studies from Uppsala University and in International Collaboration and Crisis Management from the National College of Defence in Stockholm, Sweden. She has also taken advanced courses in asymmetrical threats, terrorism and mediation/negotiation.

During her professional carrier, she has co-authored and contributed to a series of election-related publications and papers:

- “The potential of EU Funded electoral assistance to support the prevention of election related conflict and violence: Lessons from the Southern African Region”
- EURECS - A European Response to Electoral Cycle Support (2016)
- The Invisible War: War Experiences and Political Participation in Liberia’ (2013) Department of Government, Uppsala University
- ‘The Security – Development Nexus in Practice: A Human Security Approach to DDR. A Comparative Case Study of Liberia and Haiti’ (2011) National Defense Colleague, Stockholm
- ‘Poverty, Collective Action and Boarder Conflicts: A Case Study of Extreme Deprivation among Exile Haitians in the Dominican Republic’ (2010) Nuestra Frontera Activity Report 2010 (www.nuestrafrontera.org)

Co-editors

Kondwani Chirambo *(Author of the SADC/Botswana case study)*

Dr Chirambo has strong and proven experiences in the inter-related fields of electoral assistance; electoral-related conflict, democratic governance and development communication. He has served in executive/senior management positions in the past 16 years developing and implementing multi-country, trans-disciplinary research/policy and elections evaluation initiatives. Between 1998 and 2002, Dr Chirambo headed the Sustainable Democracy Programme of the Southern Africa Research and Documentation Centre (SARDC), a USAID supported project which entailed election observation, training for the SADC Parliamentary Forum electoral observation missions. For ten years, he has been the Director and senior manager of the Governance and AIDS Programme at the Institute for Democracy in South Africa (Idasa), one of the world’s leading democracy Think Tanks. He is, presently, the Lead Consultant to the review of the Southern African Development Community (SADC)’s Principles and Guidelines Governing Democratic Elections, commissioned by the SADC Organ on Politics, Defence and Security Cooperation (OPDSC) and the German international development agency (GIZ). He was, also, recently appointed by the African Union Commission (AUC) to head and Coordinate the AU’s Long Term Observation Mission to Zimbabwe’s 31 July, 2013 Harmonised Elections, which involved the assessment

of the electoral cycle.

Chirambo is Doctor of Literature and Philosophy (Communication Science), College of Human Sciences, University of South Africa (2006-2011). He holds a MA in Mass Communications, Faculty of Social Sciences, University of Leicester, United Kingdom (2000-2002), an Advanced Diploma, Journalism from the Evelyn Hone College of Applied Arts and Commerce in Lusaka and an additional Advanced Diploma, Human Rights and Humanitarian Law from the Raoul Wallenberg Institute of the University of Lund in Sweden.

Thibaud Kurtz

Thibaud joined ECES in 2017 as the Capacity Building Adviser of the project Preventing Electoral Violence in the Southern African Development Community (PEV SADC). He has been co-editing a Handbook on Electoral-Related Violence in the SADC region and conducted research on electoral assistance, prevention and mitigation of violence and SADC region. Thibaud has previously been working extensively on Geopolitics, Institutional Capacity Building, Gender, Conflict Resolution, Economic Development, Trade, Elections and Democratic Governance in the Central African and Southern African regions since 2006. He was based in Botswana for eight years covering regional matters related to SADC. He worked as a Regional Officer for the French Ministry of Foreign Affairs, the European Union and the British Foreign and Commonwealth Office in connection with the Department for International Development (DfID) regional offices. Thibaud has been advising international actors on how to work and to build partnerships in the SADC region as well as working closely with Regional bodies, national governments and networks of Non-Governmental Organisations (NGOs) in the SADC region. Thibaud worked in 2006-2008 for EurAc, the European Network of active NGOs in Central Africa (DRC, Rwanda, Burundi), based in Brussels, Belgium.

Authors

Tanzania

Alexander Makulilo

Dr. Makulilo holds a PhD in Political Science from the University of Leipzig - Germany. He is currently Senior Lecturer and Head of Department of Political Science and Public Administration, University of Dar es Salaam. Dr. Makulilo is also the Chief Editor of the African Review: A Journal of African Politics, Development and International Affairs. His main research areas include governance, democracy, gender, comparative politics and constitutionalism.

Dr. Makulilo has researched and consulted widely on party politics, democracy and elections, human rights, peace and security, opinion polls, gender, election observation, and constitutionalism. His latest publication is "Authoritarian stability across space: The case of Tanzania", (2015) published in the Journal of Comparative Politics-Springer, Germany.

Andrew Mushi

Dr Mushi is a lecturer on Civil Society and Development and Director for Centre for Society and

Governance (CeSGO) at the Mzumbe University in Dar es Salaam, Tanzania. Mr. Mushi has extensive experience of working with and researching on politics, civil society and governance, poverty alleviation, regional decentralization processes, electoral processes, gender issues in Tanzania and in general, in Sub-Saharan Africa.

In particular, among his research works on election, Mr. Mushi presented “Tanzania Elections 2010: present state and future trends” to the Royal African Society at the School of Oriental and African Studies (SOAS), University of London (2010). Mr. Mushi is member of the Tanzanian Special Committee on the New Constitution under Legal and Human Rights Centre (LHRC) with main responsibility of (i) Documenting the whole process of Constitution Review.(ii)Providing technical guidance at all stages to a team of public empowerment, and CSOs; (iii)Analyzing the process and providing feedback to the Commission, Constituent assembly, electoral commission and public in general.(iv)Providing technical support to the rest of stakeholder’s particularly civil society organisations that undertake interventions in relation to constitution making in Tanzania.

Mr. Mushi has been Facilitator and Advisor on Gender Sensitivity and How to Develop Gender Sensitive Organisation to Women and Poverty Alleviation in Tanzania as well as Trainer and Advisor on advocacy and lobbying skills; and how influence policy to The National Gender and Sustainable Energy Network (NGSEN). Mr. Mushi holds a PHD from the University of Birmingham (UK). He obtained the PHD with a thesis on Non-Governmental Organisations (NGOs) and the Politics of Engaging Government in Tanzania. Mr. Mushi holds a MA and a BA in Sociology from the Dar es Salaam, Tanzania.

Angola

Celestino Onesimo

Celestino Onésimo Setucula is the Programs officer of Angolan Institute of Electoral System and Democracy (Instituto Angolano de Sistemas Eleitorais e Democracia – IASED). Before that, he was Secretary of the Southern area (Namibia, Huila, Cunene and Kwando Kubango) of Inter-Ecclesial Committee for the Peace in Angola – COIEPA, from 2002 - 2004.

In 2005 he was appointed by the Executive of COIEPA as National Coordinator of Civic Education Community Program, about peace and national reconciliation. In this quality, he was member of Resolution Group of the Great Lakes Conflicts, linked to State Department, in the representative of the Angolan Civil Society quality, sharing my experiences with the civil society of Tanzania, Uganda, Democratic Republic of Congo, Rwanda and Zambia, under the patronage of the African Union and of the United Nations of 2004 - 2006. In July of 2006, he was appointed as Coordinator of the National Platform of the Angolan Civil Society for the Elections, coordinating civic education actions, holding the politician environment of the political, electoral observation, creating the data base about the Angolan electoral process and the civic education in the perspective of the respect and promotion of the human rights with the European Commission, UNDP and other regional and international donors support.

He participated in many conferences about the civic education and resolution of electoral conflicts in Europe (France) and countries of Southern Africa (SADC). He also did electoral observation mission in Tanzania, Zambia, South Africa on General and Presidential Election. Onésimo Setucula speaks Portuguese, English and National Language Umbundu.

Malawi

Henry Chingaipe

Mr. Chingaipe is an experienced Political Scientist specialized in Governance and Development. He holds a Doctorate Degree in Political Science from the University of York (UK), a MA in Development Studies from the University of Cambridge (UK), and BA in Political and Administrative Studies from the University of Malawi. He is an experienced researcher and a former university lecturer with knowledge, analytical competence and research interests in public policy analysis, institutional analysis and development, state theory and praxis, political theory and governance, elections and electoral processes, democracy and democratisation, state-society relations, the politics of international aid and development effectiveness of aid and political economy of development.

He has solid work experience in the Public Sector in Malawi where he helped to institutionalize research services in the Malawi Parliament and taught at the Universities of Malawi and York (UK). During his professional career he has provided consultancy services to the Australian Agency for International Development (AusAID), UNDP Malawi, Dan Church Aid Malawi, British Department for International Development (DFID)-Malawi, Irish Aid/Malawi Economic Justice Network, Action Aid Malawi, Centre for Multiparty Democracy, Konrad Adenauer Foundation, Deloitte & Touche Malawi, the Pan African Parliament (RSA) and the Civil Society Governance Fund (Tilitonse) in Malawi, and UNICEF, CARE Malawi, Norwegian Church Aid and CISANET, among many others.

South Africa

Dimpho Motsamai

Dimpho Motsamai is an independent consultant after having worked several years as the regional security analyst with the Conflict Prevention and Risk Analysis division of the Institute for Security Studies (ISS).

Mrs. Motsamai worked previously as consultant, at individual and institutional levels with organizations including SADC, the Common Market for Eastern and Southern Africa, (COMESA), the Development Bank of Southern Africa (DBSA), the Electoral Institute for the Sustainability of Democracy in Africa (EISA), the International Development Research Centre (IDRC), the Wilson Centre for International Scholars, and the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ).

Such professional experiences equipped Mrs. Motsamai with requisite technical know-how in project design, management and the organization of outcome-based programs. She is currently pursuing her Doctorate at the University of the Witwatersrand, Johannesburg South Africa and publishes extensively on governance and conflict dynamics in the Southern African Development Community (SADC) region. She holds a MA in International Relations from the University of the Witwatersrand and a BA in International Relations.

Madagascar

Juvence Ramasy

Political and Electoral Expert, Dr. Ramasy is a lecturer at the University of Toamasina, Madagascar, where he teaches constitutional law. He is a PhD in political sciences from the University Toulouse 1 Capitole, France. His thesis focused on the following issue: "State and the implementation of democracy in the islands of the southwest Indian Ocean: the case of Madagascar and Mauritius."

Dr. Ramasy has a decade of professional experience, as African and Malagasy Expert, in the field of political science, political history and international relation research. He has been a visiting scholar at the Institute of Diplomacy of China in 2011. In 2012, he was Visiting Professor at the Institut d'Etudes Politiques de Lyon (France) and at the Institut d'Etudes Politiques de Toulouse (France). In 2013, he was a Visiting Scholar African Studies at the center of Leiden (Netherlands). He has participated in a number of academic conferences and symposium where he presented his work on the Malagasy political and electoral context. Dr. Ramasy published several essays and articles on the democratization process in Madagascar as well on cross-cutting legal issues such as the legal framework for protecting child within armed conflicts in Africa or the setup of special tribunals in Africa. His current research works focus on the following issues: state, political elites, security forces, electoral processes and democracy in sub-Saharan Africa.

Mozambique

Johanna Nilsson

Ms. Nilsson is currently a PhD Candidate in Political Science at Uppsala University, Sweden. She has vast knowledge of Mozambique and was implicated in comprehensive research around the political and electoral affairs of the country. She holds a MA in Social Science, Development Studies with a specialization in post-conflict development and gender with a master's dissertation focusing on reintegration of female soldier and the implementation of UNSCR 1325. Nilsson's dissertation was based on research completed through a field study in Sierra Leone and Liberia. Prior to that, Nilsson attend courses on Genocide and Mass Violence, Development and Armed Conflict, and African studies.

Nilsson also holds a BA in Social Science - Development Studies. On this occasion, she attended courses in basic and advanced levels of Development Studies together with courses in Peace and Conflict Research and International relations. She is currently lecturer in 'Development, Democracy and Governance' and seminar teacher in International Politics. Nilsson has carried out numerous field trips to Mozambique and conducted key informant interviews with its political elite during several years of focus on the dynamics between the political parties in the country, exploring on its historical roots.

Zimbabwe

Jestina M. Mukoko

Jestina M. Mukoko has longstanding experience on research related to electoral violence. He is the National Director of the Zimbabwe peace project, from 2007 to present. She started to work for the Zimbabwe civic education trust (ZIMCET) as Public relations officer from September 2002 to September 2003. Between the periods of 2003 to 2006, she held the position of Programme manager, still within the Zimbabwe civic education trust (ZIMCET). During this time, she coordinated and managed five projects of the ZIMCET' peace building programme. She also worked from October 1992 to June 1999 as Sub Editor/Presenter National Languages Desk for the Zimbabwe Broadcasting Corporation and from

June 2000 to August 2002 as Producer/Reporter for the Radio Voice of the People in Harare.

Mrs Mukoko holds a Masters of Business Administration Graduate School of Management 2008 University of Zimbabwe and a Post-Graduate Certificate 2014 Defending Human Rights. In addition, she has a Diploma of the Zimbabwe Institute of Public Relations

Swaziland

Lungile Nonhlanhla Mnisi

This was when the country promulgated the Swaziland Constitution. She discovered her passion on human rights, good governance and democracy; after being exposed to interrogating the Constitution on the level at which it guarantees and or adheres to human rights, democracy and good governance values in different programs she was working on at that time. Her work and passion on these subjects saw her acquiring a Chevening scholarship, and currently holds a Master of Arts in Human Rights Theory and Practice from the University of Essex in Colchester, United Kingdom. She has formed part of Southern African Development Community (SADC) Observer Missions in Zimbabwe (2008 and 2013) elections and observed Swaziland's 2003 election under the auspices of CANGO.

Miss Lungile Nonhlanhla Mnisi works as Communication and Advocacy Officer for COSPE on the Project "Fostering Communication and Cooperation amongst Non-State Actors" in partnership with CANGO and punto.sud since January 2014 to date. She held the position of Project Officer for Swaziland Coalition of Concerned Civic Organizations from May, 2012 to December 2013, focusing on organisation and coordination of national advocacy campaigns, but also on research and partnership with the "Coalition affiliating organisations" to implement campaigns on topical issues namely on the fight against human rights abuses and GBV campaigns. She also worked with the Centre for Human Rights and Development (CHRD) as Communications Officer.

Zambia

Lee Habasonda

Mr. Habasonda is a prominent expert in the field of analysis and practice in democratic and governance processes. He also has a strong and proven professional expertise in the field of politics, peace, security and conflict management as well as in the field of conflict management, security and transitional justice. He is lecturer at the University of Zambia in the Department of Political and Administrative Studies since 2005, he's consultant in socio/economic and political issues and also a competent trainer and facilitator in conflict transformation processes, negotiation skills and conflict resolution.

Mr. Habasonda holds a MA International and Comparative Legal Studies with distinction from the School of Oriental and African Studies (SOAS) University of London, 2002 and a BA Development Studies and politics, with merit from the University of Zambia, 2000. Habasonda is a member of the National Conflict Management Committee of the Electoral Commission of Zambia Served as a member of the Electoral Reform Technical Committee (ERTC) which was appointed by the Government of Zambia in August, 2003 to review the electoral system. He is the founder and formerly Executive Director of a local democracy NGO in Zambia- the Southern African Centre for the Constructive Resolution of Disputes (SACCORD) and the current President of Transparency International Chapter in Zambia.

Democratic Republic of Congo

Robert Gerenge

Robert Gerenge is the Head of Special Programmes at the Electoral Institute for Sustainable Democracy in Africa (EISA). He has over 10 years' international experience spanning over 30 political and electoral processes in Africa and beyond. Robert coordinates EISA's multi-level institutional capacity strengthening in democracy building at continental, sub-regional and selected countries, mostly post conflict or transitional contexts in Africa. Previously, he worked for five years from 2004-2009 as Electoral Advisor at the Electoral Assistance Division of the UN Mission in Democratic Republic of Congo (MONUC) where he supported the electoral authorities in DRC to organise the 2005 constitutional referendum and the general elections in 2006 as well as post electoral reforms.

Robert has published on elections, conflict and state-building in Africa and has shaped public opinion through media commentaries on topical political issues in Africa. He holds a Master's in Public Policy from University of York, UK, BA in Political Science and Sociology from the University of Nairobi, Kenya and training in Intractable Conflicts and International Humanitarian Law and Law of Armed Conflict. Robert is Kenyan and speaks English, French and Kiswahili.

Lesotho

Victor Shale

Victor Shale is the Principal Consultant at Shalestone Elections & Governance Consultants Pty Ltd and former Electoral Institute for Sustainable Democracy in Africa (EISA) Country Director in Zimbabwe with over 15 years of international experience in democratic governance and elections. He holds a Doctorate in Politics from University of South Africa (UNISA) and an MPhil in Conflict Management from University of Port Elizabeth (UPE). He has reviewed articles for accredited journals such as the Journal of African Elections (JAE), Journal of Peacebuilding and Development, the Review of African Political Economy (ROAPE) and Journal of Sociology Studies. He is the co-editor of the books "When elephants Fight: Preventing and Resolving Election-related Conflicts in Africa" foreworded by Former President Festus Mogae of Botswana and "The Impact of Floor Crossing on Party Systems and Representative Democracy". Shale has also been a member of the African Union Reference Group on Democracy, Human Rights and Governance as well as the EISA Expert Panel on Election Integrity.

He has researched, published and provided training on electoral processes, including election campaigning, conflict management, civic and voter education, poll watching, election observation including results management and transmission processes to over 1000 election observers across the continent and SADC Parliamentarians ahead of parliamentary and presidential elections. He has also developed training materials and conducted capacity building training for political parties on intra-party democracy, inter-party relations, party coalitions, gender, public outreach and policy development.

He has also undertaken senior expert level international assignments in electoral assistance and observation including providing technical assistance to the Southern African Development Community (SADC), the Commonwealth, African Union (AU), Election Management Bodies (EMBs) and many INGOs and CSOs.

Mauritius

Catherine Boudet

Catherine Boudet has an academic background in African politics, with a focus on Mauritian democracy, especially the issues of identity politics, nation-building and consociational democracy. She holds a PhD in Political Science from the Institute of Political Science of Bordeaux (France) and a Masters in Comparative Politics from the Institute of Political Science of Aix-en-Provence (France) with a specialization on Indian Ocean political settings. In addition to her PhD thesis, Catherine Boudet has published a series of scientific articles on consociational democracy and nation-building in Mauritius. She teaches political science at the Institute Cardinal Jean Margéot in Rose-Hill, Mauritius. An observer of the political life in Mauritius for more than 15 years, she is regularly invited by the Mauritian media to provide her analyses about political events and issues.

Namibia

Maximilian Weylandt

Max Weylandt is a Research Associate at the Institute for Public Policy Research in Namibia. As the lead researcher on the Democracy Report programme, he analyses Parliament's legislative work, writing papers on current legislation and creating explanatory briefs aimed at the general public. In addition, his work includes research on governance issues in Namibia, specifically on extractive resources. He is heading a project that will see the creation of a website enabling Namibians to browse all mineral and hydrocarbon licenses in Namibia. Max holds a Bachelor's Degree in Political Science from Dickinson College and a Master's Degree in Development Studies from the University of Oxford. His Master's research focused on opposition parties and their voters in Namibia's post-independence elections.



ABOUT THE EUROPEAN CENTRE FOR ELECTORAL SUPPORT

The European Centre for Electoral Support (ECES) is a not for profit private foundation headquartered in Brussels with a global remit. ECES promotes sustainable democratic development through the provision of advisory services, election operations support and management of projects and large basket funds in favor of electoral processes worldwide. ECES works with all electoral stakeholders including electoral management bodies, civil society organizations and election observation platforms, political parties and parliaments dealing with electoral reforms, media, security sector and legal institutions tasked with electoral dispute resolution. One of ECES' key areas of expertise is the prevention, mitigation and management of election related conflict and violence.

ECES embarked on its first real large endeavor at the beginning of February 2012 by delivering face-to-face and distance training to the ten electoral management bodies of the ECCAS (Economic Community of Central African States). ECES was also awarded a project to support the local elections in post-revolution Libya in two stages that entailed an operational phase and a dialogue process phased focusing on reconciliation of the war-torn country.

Seven years down the line, ECES is a well-established organization that is proud of its roots and the course it has taken, the many challenges overcome as well as many of our mile-stone achievements. Our quest to deliver electoral assistance world-wide while promoting European values through a European distinct delivery mechanisms is constantly growing. As such, ECES is committed to continue contributing to democratic and electoral processes worldwide.

ECES is a member of the European Partnership for Democracy (EPD) and is part of its Board of Directors. In this context, ECES, in collaboration with EPD members, has crafted and copyrighted a strategy called "A European Response to Electoral Cycle Support - EURECS".

EPD is the most important network of European civil and political society organizations working on democracy assistance. EPD members have delivered, or are currently delivering 200 projects in 138 countries while There are 1200 people presently working for the different members of EPD, including in its 50 Regional offices.



In June 2016, ECES participated in the European Development Days (EDD 2016) and presented the lessons learned from supporting democratic and electoral processes in fragile contexts through inclusive dialogue and enhanced leadership capacities. During this event, ECES was represented during the high-level panel "Opportunities and challenges in the security and development nexus" chaired by High Representative of the Union for Foreign Affairs and Security Policy and Vice-President of the Commission Federica Mogherini.

Thijs Berman represented ECES in the Panel, at the time Team Leader in the Central Africa Republic (CAR), brought his multi-facetted professional experiences as former member of the European Parliament and several times Chief Observer of EU Electoral Observation Missions, most recently in Afghanistan. His contribution to the high level panel "Implementing Sustainable Development Goal 16 for peaceful and inclusive societies - Opportunities and challenges in the security and

development nexus” departed from his experience of elections in hardship contexts.

The following personalities contributed to the discussions: the newly elected presidents of the Central African Republic (CAR), Faustin-Archange Touadéra, and Burkina Faso, Roch Marc Christian Kaboré and youth activist Marouane Bakin, founders of «Makers of Hope for Human Rights».

High-level panel “Implementing Sustainable Development Goal 16 for peaceful and inclusive societies - Opportunities and challenges in the security and development nexus”, from the left: Marouane Bakin, President Roch Marc Christian Kaboré, HRVP Federica Mogherini, President Faustin-Archange Touadéra, Bénédicte Paviot (Moderator) and Thijs Berman.

As the previous year, ECES was selected to show-case its work during the European Development Days 2017 (EDD17). The ECES stand was built around the theme “The potential of EU Funded electoral assistance to support the prevention of election related conflict and violence: Lessons from the Southern African Region”. During EDD17, ECES pre-launched its handbook on the prevention of election related conflict and violence with case studies from the Southern Africa region. The handbook is the result of the research component of the regional conflict prevention project PEV SADC (Preventing Electoral Conflict in the SADC region www.pevsadc.eu) implemented by ECES since February 2013.

From February 2012 to June 2017, ECES signed over 70 contracts in support of electoral processes and strengthening of democratic institutions.

Recently, ECES has been awarded with two milestone projects: “Support to Democratic Governance in Nigeria, Component 1: Support to the Independent National Electoral Commission (INEC)” and “Enhanced Support to Democratic Governance in Jordan”. Both projects are built on the lessons learned from having implemented a number of projects in support to electoral and democratic processes and they will be implemented according to the EURECS strategy.

ECES forms part of the consortium that the European Commission has awarded the prestigious ‘Electoral Observation Democracy Support (EODS II)’ contract.

ECES boasts a wealth of experience and expertise in electoral support projects stemming from nearly all regions across the globe. During its 7 years of delivering electoral and democracy support, ECES has implemented activities in more than 35 countries mainly, but not exclusively, in Africa and the Middle East. In addition to that, the founders and personnel of ECES have acquired extensive field experience and, taken together, ECES can count on a specific knowledge bank from its well-established network in over 90 countries around the world.

ECES employs a balanced blend of highly skilled international, regional and national electoral experts to collaborate on our projects. ECES has thus far contracted more than 1000 persons, representing over 50 different nationalities.

Sustainability and local ownership of all ECES activities are essential. Capacity enhancing workshops of various themes covering the electoral cycle are offered by ECES, notably the training programme on Leadership and Conflict Management Skills for Electoral Stakeholders (LEAD), Effective Electoral Assistance (EEA) and BRIDGE (Building Resources in Democracy Governance and Elections) has so far reached over 5000 persons.

As part of the on-going development of advisory services and operational support for all electoral

stakeholders, ECES seeks to continuously facilitate exchanges of experience and explore new strategic partnerships with other international and regional organizations and networks in the democracy and electoral fields. ECES' currently network of funding, strategic and implementing partners amounts to over 80 diverse organizations and institutions worldwide.

The EU and EU Member States are ECES' largest donors, however ECES has been funded by and collaborated with more than 20 donors.

ECES' founding members decided for the Headquarters to be located in Brussels as one of the biggest diplomatic hubs in the world, hosting most of the European Institutions and the North Atlantic Treaty Organization – NATO headquarters. ECES' founders and members of its management board have been based in Brussels for more than 20 years and have held senior managerial and advisory posts within the European Commission, United Nations and International Organization of Migration, served as elected members of the European Parliament or served at Ambassadorial level to the EU institutions. This allows ECES to plug into a deep understanding of the functioning of the EU institutions and the interactions with other international organizations and countries' representations to the EU institutions in Brussels when it comes to democracy and electoral support. ECES is however a decentralized organization with field offices and liaison offices in most places where it has ongoing projects, to bring activities closer to our beneficiaries and counterparts in partner countries.

LIST OF ABBREVIATIONS

ABC	All Basotho Convention
ADEG	African Charter on Democracy, Elections and Governance
ADF	African Democracy Forum
ADF/NALU	Allied Democratic forces/National Army for the liberation of Uganda (AFDL Alliance des Forces Démocratiques pour la the Libération du Congo)
AG	Attorney General
AGA	African Governance Architecture
AKFM	Antokon'ny Kongresin'ny Fahaleovantenan'i Madagasikara / Parti du Congrès de l'Indépendance (Independence Congress Party)
AMP	Alliances pour la Majorité Présidentielle (Presidential Majority Alliance)
ANC	African National Congress
ANC	African National Congress
APRM	African Peer Review Mechanism
APSA	African Peace and Security Architecture
AREMA	Avant Garde de la Rénovation de Madagascar (Vanguard Madagascar Rénovation) - anciennement Avant Garde de la Révolution de Madagascar (formerly Vanguard Madagascar Revolution)
ASP	Afro-Shirazi Party
AU	African Union
AUDP	African United Democratic Party
BAC	Basutoland African Congress
BBDP	Basotho Democratic National Party
BCP	Basutoland Congress Party
BDNP	Basotho Democratic National Party
BFP	Basutoland Freedom Party
BLS	Best Loser System
BNL	Blantyre Newspapers Limited
BNP	Basotho National Party
BVR	Biometric Voter Registration
CAM	Comité d'Action Musulman (Muslim Action Committee)
CAR	Central African Republic
CASA-CE	Convergência Ampla de Salvação de Angola – Coligação Eleitoral (Broad Convergence for the Salvation of Angola – Electoral Coalition)
CASS	College of Arts and Social Science
CCL	Christian Council of Lesotho
CCM	Chama Cha Mapinduzi
CCZ	Council of Churches in Zambia
CDC	Constitutional Drafting Commission
CDP	Christian Democratic Party
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CEI	Commission Electorale Indépendante (Independent Electoral Commission)
CENCO	Conférence Episcopale Nationale du Congo (National Episcopal Conference of Congo)
CENI	Commission Electorale Nationale Indépendante (Independent National Electoral Commission)
CENI-T	Commission Electorale Nationale Indépendante pour la Transition (Independent National Electoral Commission of the Transition)
CEO	Chief Electoral Officer
CES	Cour Electorale Spéciale (Special Electoral Court)
CFD	African Christian Front for Democracy
CHADEMA	Chama Cha Demokrasia na Maendeleo
CIAT	Comité International d'Appui à la Transition (International Support Committee to the Transition)
CIS	Commonwealth of Independent States
CIS	International Committee of the Wise
CLP	Congress Liberation Party
CMPs	Conflict Management Panels
CNE	Comité National Électoral (Electoral National Committee)
CNE	Comissão Nacional de Eleições (National Electoral Commission)
CNMPE	National Mediation Commission of the Electoral Process
CoD	Congress of Democrats
COE	Council of Europe

COMESA	Common Market of East and Southern Africa
CONADER	Commission Nationale de la Démobilisation et Réinsertion (National Commission of Demobilisation and Reinsertion)
COSATU	Congress of South African Trade Unions
CPS	Communist Party of Swaziland
CRC	Constitutional Review Commission
CRPD	Convention on the Rights of Persons with Disabilities
CRPWD	Convention on the Rights of Persons with Disabilities
CSC	Conference of Swaziland Churches
CSC	Council of Swaziland Churches
CSI	Conseil Supérieur des Institutions (Institutions Superior Council)
CSOs	Civil Society Organisations
CST	Conseil Supérieur de la Transition (Superior Council of the Transition)
CT	Congrès de la Transition (Congress of the Transition)
CUF	Civic United Front
DA	Democratic Congress
DC	District Commissioner
DED	District Executive Director
DFID	United Kingdom Department for International Development
DP	Democratic Party
DPL	Democratic party of Lesotho
DRC	Democratic Republic of Congo
DTA	Democratic Turnhalle Alliance
EBC	Elections and Boundaries Commission
EC	European Commission
ECA	Electoral Commission Act
ECCAS	Economic Community of the Central African States
ECES	European Centre for Electoral Support
ECF	Electoral Commissions Forum
ECF	Electoral Commission Forum of SADC Countries
ECF-SADC	Electoral Commissions Forum of SADC countries
ECN	Electoral Commission of Namibia
ECZ	Electoral Commission of Zambia
EEA	Election Expenses Act
EFF	Economic Freedom Fighters
EFZ	Evangelical Fellowship of Zambia
EISA	Electoral Institute for Sustainable Democracy in Africa – formerly Electoral Institute for Southern Africa
EMB	Electoral Management Body
EOC	Equal Opportunity Commission
EOM	Election Observation Mission
ESC	Electoral Supervisory Commission
ETT	Electoral Task Team
EU	European Union
EWM	Early Warning Mechanisms
FBOs	Faith-Based Organisations
FDLR	Forces Démocratique pour la Libération du Rwanda
FFKM	Fiombonan'ny Fiangonana Krisitanina eto Madagasikara / Conseil des Églises Chrétiennes de Madagascar (Council of Christian Churches of Madagascar)
FLEC	Frente para a Libertação do Enclave de Cabinda (Liberation Front of the Cabinda Enclave)
FNDR	Front National de Défense de la Révolution Malagasy (National Defence Front of Malagasy Revolution)
FNL	Forces Nationales de Libération
FNLA	Frente Nacional de Libertação de Angola (National Front for the Liberation of Angola)
FPTP	First-Past-The-Post
FRELIMO	Frente de Libertação de Moçambique (Mozambique Liberation Front)
FRS	Forces républicaines de sécurité (Security Republican Forces)
GNU	Zanzibar Government of National Unity
GPA	Global Political Agreement
GPI	Global Peace Index

HAE	Haute Autorité de l'État (State High Authority)
HAM	Haute Autorité de Media
HAT	Haute Autorité de la Transition (Transition High Authority)
HCC	Haute Cour Constitutionnelle (Constitutional High Court)
HDI	Human Development Index
HDR	Human Development Report
HRW	Human Rights Watch
HVM	Hery Vaovao ho an'i Madagasikara
ICCPR	International Covenant on Civil and Political Rights
ICD	Inter Congolese Dialogue
ICERD	Convention on the Elimination of All forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICG	International Crisis Group
ICGLR	International Conference on the Great Lakes Region
IDEA	International Institute for Democracy and Electoral Assistance
IEC	Independent Electoral Commission
IFES	International Foundation for Electoral Systems
IMC	Inter-ministerial Committee
IMF	International Monetary Fund
INM	Imbokodvo National Movement
IPA	Independent Political Authority
IRIS	Incident Registration Information System
ISS	Institute for Security Studies
JCPS	Justice Crime Prevention and Security
JSC	Justice Services Commission
KAIPKTC	Kofi Annan International Peace Keeping Training Centre
LC	League of Churches
LCD	Lesotho Congress for Democracy
LGEA	Local Government Elections Act
LHRC	Legal and Human Rights Centre
LLA	Lesotho Liberation Army
LMPs	Lesotho Mounted Police Service
LPC	Lesotho People Congress
LRA	Lord's Resistance Army
LTO	Long Term Observation
LYS	Lesotho Youth Service
MACOSS	Mauritian Council of Social Service
MAPAR	Miaraka Amin'i Prezida Andry Rajoelina
MCP	Malawi Congress Party
MDC	Movement for Democratic Change
MDC-T	Movement for Democratic Change-Tsvangirai
MDM	Movimento Democrático de Moçambique (Mozambique Democratic Movement)
MEC	Malawi Electoral Commission
MESN	Malawi Electoral Support Network
MFM	Mpitolona ho amin'ny Fandrosoan'i Madagasikara / Parti pour le Progrès de Madagascar (Madagascar Progress Party) anciennement Mpitolona ho amin'ny Fanjakan'ny madinika / Parti pour le Pouvoir Prolétarien (Proletarian Power Party)
MFP	Marematlou Freedom Party
MHR	Member of the Zanzibar House of Representative
MISA	Media Institute of Southern Africa
MISA	Media Institute of Southern Africa
MLC	Mouvement de libération du Congo (Congo Liberation Movement)
MMD	Movement for Multiparty Democracy
MMM	Mouvement Militant Mauricien
MMP	Mixed Member Proportional
MMSM	Mandatehezano Miaro ny Sosialisma Malagasy / Mouvement Militant pour le Socialisme Malagasy (Malagasy Socialism Militant Movement)
MNC	Mbandzeni National Convention
MONIMA	Madagasikara Otronin'ny Malagasy / Madagascar soutenus par les Malgaches (Madagascar supported

	by Malgasy People) - anciennement Mouvement National pour l'Indépendance de Madagascar (formerly Madagascar Independence National Movement)
MONUC	Mission de l'ONU en RD Congo (UNO Mission in the DR Congo)
MONUSCO	Mission de l'ONU pour la Stabilisation de la RD Congo (UNO Stabilization Mission in the DR Congo)
MP	Majorité Présidentielle (Presidential Majority)
MP	Member of the Parliament
MPLA	Movimento Popular de Libertação de Angola (Popular Movement for Liberation of Angola)
MPLC	Multiparty Liaison Committee
MPR	Mouvement Populaire de la Révolution (Revolution Popular Movement)
MPs	Members of Parliament
MSM	Mouvement Socialiste Militant (Socialist Militant Movement)
MTP	Marematlou Party
MYP	Malawi Young Pioneer
NA	National Assembly
NACODEC	National Congress for Democratic Change
NCCR-M	National Convention for Construction and Reform-Mageuzi
NCDP	Congrès National pour la Défense du Peuple (National Congress for People's Defence)
NEC	Comissão Nacional Eleitoral (National Electoral Commission)
NEC	National Election Commission
NECOF	National Electoral Stakeholders Forum
NECs	National Executive Committees
NEPAD	New Partnership for Africa's Development (Declaration on Democracy, Political, Economic and Corporate Governance)
NEPAD	New Partnership for Africa's Development
NGO	Non-Governmental Organization
NIP	National Independence Party
NNLC	Ngwane National Liberatory Congress
NPL	Nation Publication Limited
NPP	National Progressive Party
NUTA	National Union of Tanganyika Workers
OAS	Organisation of American States
OAU	Organization of African Unity
OECD	Organisation for Economic Co-operation and Development
ONU	Organisation des Nations Unies (United Nations Organisation)
OPDS	Organ on Politics, Defence and Security Cooperation
OSCE	Organisation for Security and Co-operation in Europe
PAC	Public Affairs committee
PALU	Parti Lumumbiste Unifié (Unified Lumumbist Party)
PD	Progressive Democrats
PEMMO	Principles for Election Management, Monitoring and Observation in the SADC
PF	Patriotic Front
PF-ZAPU	Patriotic Front Zimbabwe African People's Union
PFD	Popular Front for Democracy
PLC	Party Liaison Committees
PLCs	Party Liaison Committees
PMSD	Party Mauricien Social-Démocrate (Social-Democrat Mauritian Party)
PMU	Police Mobile Unit
POP	Public Order Police
PPA	Parliament Petition Act
PPEA	Parliamentary and Presidential Election Act
PPRD	Parti du Peuple pour la Reconstruction et la Démocratie (People's Party for Reconstruction and Democracy)
PR	Proportional Representation
PRS	Partido de Renovação Social (Social Renewal Party)
PSD	Parti Social-Démocrate (Social-Democrat Party)
PUDEMO	People's Democratic Party
RC	Regional Commissioner
RCD	Rassemblement Congolais pour la Démocratie (Congolese Rally for Democracy)
RCD/G	Rassemblement Congolais pour la Démocratie/Goma (Congolese Rally for Democracy/Goma)

RCD/ML	Rassemblement Congolais pour la Démocratie/Mouvement Libération (Congolese Rally for Democracy/Liberation Movement)
RCD/N	Rassemblement Congolais pour la Démocratie /National Congolese Rally for Democracy/National)
RCL	Reformed Congress of Lesotho
RDC	République Démocratique du Congo (Democratic Republic of Congo)
RDP	Rally for Democracy and Progress
RDP	Reconstruction and Development Program
RENAMO	Resistência Nacional Moçambicana (Mozambican National Resistance)
RPC	Regional Police Commander
RPP	Registrar of Political Parties
SADC	Southern African Development Community
SADC PF	The SADC Parliamentary Forum
SADTU	South African Democratic Teachers Union
SAPS	South African Police Services
SCCCO	Swaziland Coalition of Concerned Civic Organisations
SCCL	Swaziland Concerned Church Leaders
SDP	Swaziland Democratic Party
SDU	Sefate Democratic Union
SEAC	SADC Electoral Advisory Council
SEFAFI	Sehatra Fanaraha-Maso ny Fianampirenena / Observatoire de la Vie Publique (Public Life Observatory)
SEOM	SADC Electoral Observatory Mission
SEOM	SADC Election Observation Mission
SIPO	SADC Indicative Plan of the Organ
SIPRI	Stockholm International Peace Research Institute
SP	Senkatana Party
SPP	Swaziland Progressive Party
SRSg	Special Representative of the Secretary General
SS	Sive Siyinqaba
SSS	Sibahle Sinje Siyinqaba
STAE	Secretariado Técnico da Administração Eleitoral (Technical Secretariat for Electoral Administration)
SWADEPA	Swaziland Democratic Party
SWAPO	South West Africa People's Organisation
TACCEO	Tanzania Consortium of Civil Society Election Observation
TCC	The Carter Center
TEMCO	Tanzania Election Monitoring Committee
TGV	Tanora Malagasy Vonona / Les jeunes Malgaches décidés (Decided Young Malagasy People)
TIM	Tiako i Madagasikara / J'aime Madagascar (I Love Madagascar)
TLP	Tanzania Labour Party
TRC	Truth and Reconciliation Commission
TRC	Tinkhundla Review Commission
UDEM0	Union des Démocrates Mobutistes (Mobutist Democrats Union)
UDHR	Universal Declaration of Human Rights
UDP	Unted Democratic Party
UDPS	Union pour la Démocratie et le Progrès Social (Democracy and Social Progress Union)
UDSM	University of Dar es Salam
UFC	Union of Forces for Change
UFP	United Federal Party
UKAWA	Umoja wa Katiba ya Wananchi
UN	United Nations
UN HRC	UN Human Rights Committee
UNC	Union pour la Nation Congolaise (Congolese Nation Union)
UNDD	Union Nationale pour la Démocratie et le Développement (National Union for
UNDP	United Nation Development Programme
UNHCR	United Nations High Commissioner for Refugees
UNIP	United National Independence Party
UNITA	União Nacional para a Independência Total de Angola (National Union for the Total Independence of Angola)
UNO	United Nations Organisation
UNSC	United Nations Security Council

UPM	Union du Peuple Malgache (Union for Malagascy People)
UPND	United Party for National Development
UPP	United Progressive Party
URT	United Republic of Tanzania
US	United States of America
USDM	Union des Sociaux-Démocrates de Madagascar (Madagascar Social-Democrats Union)
UVCCM	Umoja wa Vijana wa Chama cha Mapinduzi
VEO	Village Executive Officer
VONJY	Vonjy Ho An'i Madagasikara Iray Tsy Mhivaky / L'élan populaire pour l'unité nationale (Popular Fervour for National Unity)
WEF	World Economic Forum
WEO	Ward Executive Officer
ZANC	Zambia African National Congress
ZANLA	Zimbabwe African National Liberation Army
ZANU PF	Zimbabwe African National Union – Patriotic Front
ZAPU	Zimbabwe African People's Union
ZCTU	Zambia Congress of Trade Unions
ZEC	Zanzibar Election Commission
ZEC	Zimbabwe Electoral Commission
ZESN	Zimbabwe Election Support Network
ZHRC	Zimbabwe Human Rights Commission
ZIPRA	Zimbabwe People's Revolutionary Army
ZNP	Zanzibar Nationalist Party
ZPPP	Zanzibar and Pemba Peoples Party
ZUM	Zimbabwe Unity Movement



**EUROPEAN CENTRE
FOR ELECTORAL SUPPORT**

Avenue Louise 209A, 1050 Brussels, Belgium
Phone: +32 (0) 2 325 55 58 – Fax : +32 (0) 2 502 6630

Email : info@ecses.eu
Website: www.ecses.eu
Facebook: www.facebook.com/ecses.eu



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ELECTORAL SUPPORT NETWORK IN SOUTHERN AFRICA

10 Rochester Crescent, Belgravia, Harare
Zimbabwe